

**Report of Director of Adults and Health, Director of City Development and Director of Resources and Housing**

**Report to Executive Board**

**Date: 18<sup>th</sup> September 2019**

**Subject: Disposal of land located on Westerton Walk, Ardsley and Robin Hood, for Extra Care Housing delivery and final terms of Development Agreement.**

Are specific electoral wards affected? If yes, name(s) of ward(s): Ardsley and Robin Hood	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: 10.4(3) Appendix number: 1	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

**Summary**

**1. Main issues**

- Further to the approval of the Council House Growth Programme - Delivery of Extra Care Housing report at 19th December 2018 Executive Board, this report sets out proposals to sell land at Westerton Walk in Ardsley and Robin Hood, to the approved consortium to facilitate the development of new Extra Care Housing.
- The project will contribute to the Council’s strategic objective of delivering the Leeds Vision for Extra Care Housing by working with partner organisations to construct more than 1000 units of Extra Care Housing by 2028 to meet the growing demand for this accommodation type and population forecasts.
- The Extra Care Housing scheme to be developed on the Westerton Walk site is expected to deliver 63 Extra Care Housing apartments with communal facilities open to the public, and was granted conditional planning approval on 7th August 2019. The scheme will deliver 100% affordable rental units which significantly exceeds Affordable Housing Planning Policy requirements of 15% for the Ardsley and Robin Hood ward and the Council will have nomination rights on 100% of these units for the first lettings, and 75% nomination rights on subsequent lettings.

- In order to realise the development of the land for Extra Care accommodation it is proposed that this surplus land be sold at less than best purchase price, as detailed in the attached confidential appendix.
- Under terms of the Development Agreement to be entered into with the Council, the consortium, made up of Ashley House Ltd/Morgan Ashley LLP and Home Group will be granted a licence to work on the site for the duration of the build programme. The land transfer will only complete once the consortium can evidence that the completed Extra Care scheme meets the specification included in the Development Agreement.

## **2. Best Council Plan Implications** (click [here](#) for the latest version of the Best Council Plan)

- The Extra Care programme directly contributes to one of the Best Council Plan's 2019/20 outcomes of enabling residents with care and support needs to have greater choice and control.
- The delivery of the Extra Care programme also contributes to the Housing priority contained within the Best Council Plan 2019/20 by providing the right housing options to support older and vulnerable residents to remain active and independent.

## **3. Resource Implications**

- Based on the minimum projected efficiency saving of £240.00 per week for an individual with high support needs living in an Extra Care scheme, applied against the Council exercising its 100% nomination rights for Westerton Walk, the proposed scheme will generate an estimated system cost saving of approximately £786,240 per annum when compared to the average cost of residential care (local authority and independent sector provision.)
- As this site is not currently in the Council's capital receipt list, the sale of the land will generate an additional windfall receipt in support of the Council's capital programme.

## **Recommendations**

Executive Board is recommended to:

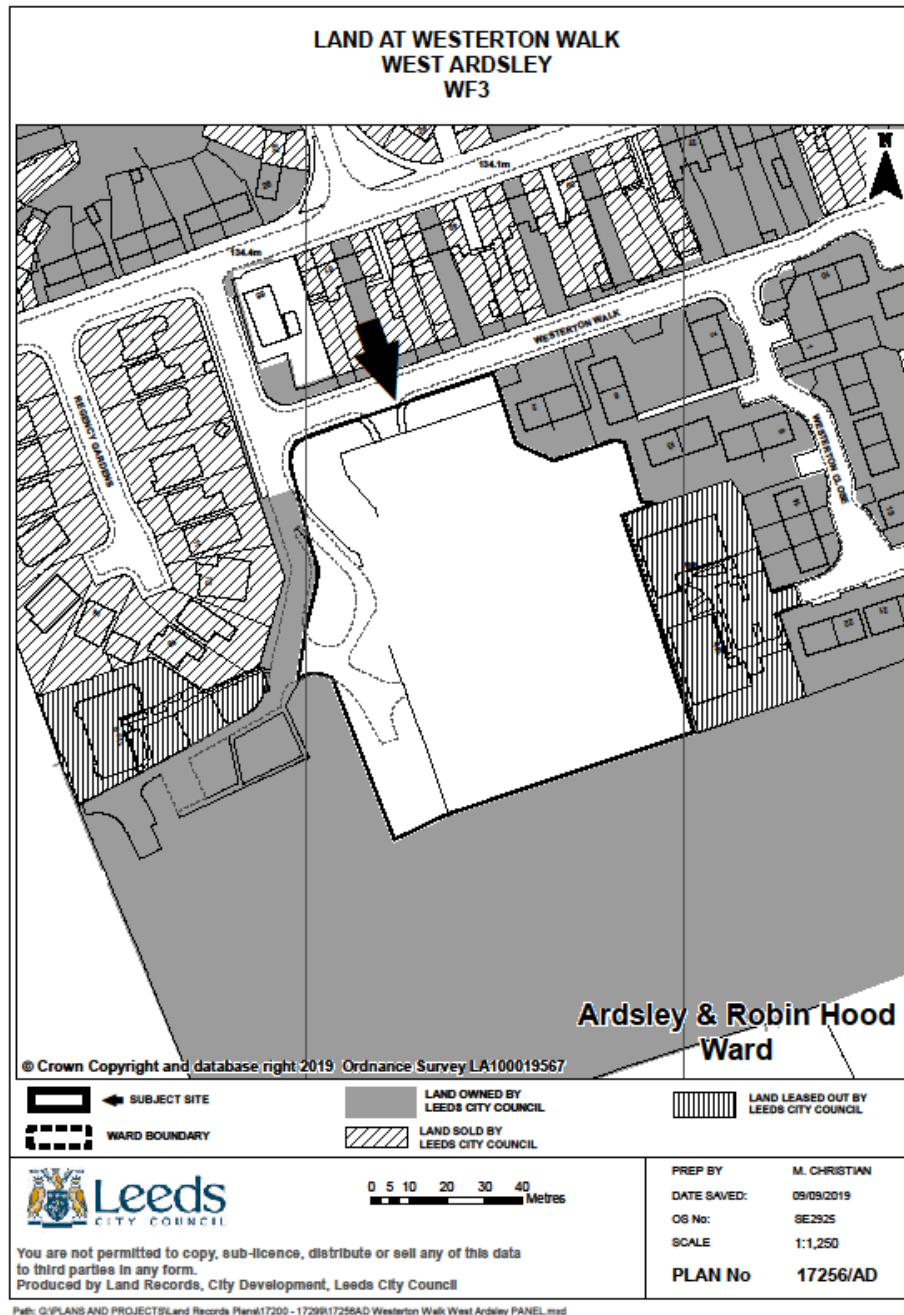
- (i) Approve the sale of the subject land to the Consortium identified within the attached confidential appendix at a less than best purchase price and on the terms detailed.
- (ii) Note that the Director of City Development, in consultation with the Executive Member for Resources, progresses with the disposal of the subject land.
- (iii) Approve in principle the final terms of the Development Agreement for use on all Package One sites as detailed in the confidential appendix.
- (iv) Grant approval to enter into the Development Agreement with the consortium;
- (v) Agree that any subsequent amendments to the terms of the disposal be delegated to the Director of City Development to approve under the scheme of officer delegation, in consultation with the Executive Member for Resources;

(vi) Note that following a successful procurement exercise, the Director of Resources and Housing, has entered into an agreement with the consortium under delegated powers, and in respect of delivering Package One: *Extra Care Housing for Older People contract DN336766*;

(vii) Note the use of s106 commuted sums, as previously allocated by Executive Board.

## **1. Purpose of this report**

1.1 The purpose of this report is to seek Board approval to dispose of a Council owned site on Westerton Walk in Ardsley and Robin Hood (see Plan No 17256/AD), to facilitate the development of new Extra Care Housing in support of the Better Lives Programme established by Adults and Health. Approval is sought to sell the land to the recommended consortium at the less than best purchase price identified in the attached confidential appendix.



1.2 The purpose of this report is also to seek agreement from Members of the final terms of the Development Agreement with the consortium which sets out the requirements of the Works and Services Specifications and also gives a timetable for the development as per the terms of the call off contract. Approval is sought for the Heads of Terms of the Development Agreement as detailed in the confidential appendix and to enter into said Development Agreement with the consortium.

## 2. Background information

2.1 This report follows approval by Executive Board on 17th July 2017 and 19th December 2018 on reports both entitled 'Council House Growth Programme - Delivery of Extra Care Housing'. Executive Board approved proposals for the delivery of Extra Care Housing for older people across the city as part of the Council House Growth Programme and to support the Better Lives Programme.

- 2.2 The resolutions at the above meetings, confirmed Executive Board's support for sites within Package 1 to be disposed of together with the possibility of disposal of sites at less than best consideration in order to deliver Extra Care Housing with higher levels of affordable housing than required under Planning Policy, along with delivering a wider social value impact, most notably in section 4.6.3 of the December 2018 report. The report stated that the four sites would attract higher offers for private residential developments on the open market than for the proposed specialist residential care use. Selling the land for specialist care use will therefore result in the Council not achieving best consideration. However, by progressing the proposals for new extra care housing as an alternative to other more expensive and less suitable options for those needing care and support, the Council expects it can also make significant financial savings.
- 2.3 Executive Board has previously considered similar recommendations based on the standard approach taken by the Council to assess the valuation of schemes and has approved the disposal of sites to various Registered Providers at less than best purchase price in pursuit of housing growth and in recognition of the strategic benefits which will be achieved.
- 2.4 For the Westerton Walk site these include 100% nomination rights on all affordable rented units for the first lettings, followed by 75% nomination rights on subsequent re-lets for 60 years; delivering Extra Care Housing in an area where there is a current undersupply; and an opportunity to create employment and training opportunities. In all such cases, to comply with European State Aid Directives, where the land has been sold at a less than best purchase price, the terms of disposal would include restrictions to ensure that the site could only be used for the provision of Extra Care Housing or "alternative affordable provision" defined as "any alternative use of the Property to Extra Care Housing which is an affordable use as approved by Homes England and LCC" after completion of the build programme.

### **3. Main issues**

#### Appointment of an Extra Care Housing delivery partner

- 3.1 As part of the Better Lives Programme there has been a significant amount of research undertaken by Adults and Health to determine how Leeds City Council should respond to the predicted increase in the number of older people living longer with long term health conditions whilst improving individual choice in terms of how they access care and support. As set out in the Better Lives Programme Phase Three Report in September 2016 which was endorsed by the Executive Board, the Council continues to investigate opportunities to realign services to better fit the needs and aspirations of older people in Leeds and a key element of this approach has been the delivery of extra care housing as an alternative model to residential care under the auspices of the Extra Care programme.
- 3.2 The programme has been split into two packages. In Package 1 the schemes will be delivered and managed by an external provider with the Council having nomination rights on all affordable rented units. Package 2 will be delivered directly by the Council with all the units being let at affordable rent levels and managed by the Council.
- 3.3 Westerton Walk was one of the Council owned sites dedicated to the delivery of Extra Care Housing by Executive Board in July 2017. In accordance with the procurement strategy approved by Executive Board, the Council approached providers on the North

Yorkshire County Council (NYCC) Extra Care Housing framework to gauge their interest in delivering the first four sites in Package 1 – Westerton Walk, Ardsley and Robin Hood; Seacroft Crescent, Killingbeck and Seacroft; Windlesford Green, Rothwell; and Farrar Lane, Adel & Wharfedale.

- 3.4 The NYCC Extra Care procurement framework was used to appoint the consortium to design, build and operate Extra Care Housing on Westerton Walk and three other Package 1 sites. Bidders were required to submit a net purchase offer for the Westerton Walk site and gross offers for the three subsequent sites.
- 3.5 Following the conclusion of the procurement process, the Director of Resources and Housing, in accordance with his delegated authority, has now approved the decision to enter into a contract with the recommended consortium made up of Ashley House Ltd/Morgan Ashley LLP and Home Group for the development of the Package 1 sites. Westerton Walk will be the first site to be developed through this agreement. At its meeting on 19th December 2018, Executive Board noted that responsibility for negotiating the terms and consideration of the Package 1 sites was delegated to the Director of City Development who would seek final approval of the final terms of disposal from Executive Board.

#### Site

- 3.6 The site is located off a purpose built cul-de-sac and includes land which was previously occupied by the West Ardsley Day Centre which was constructed in 1968. Following Executive Board approval in January 2009 the West Ardsley Day Centre was declared surplus to requirements by Adults and Health. The whole site measures at approx. 0.89 ha and has been cleared since February 2016.
- 3.7 The site has been identified for Extra Care Housing due to high levels of demand for such provision in the Outer South locality. The Council has undertaken a comprehensive demand analysis of Extra Care Housing to identify the quantity and type of specialist older peoples housing required across the city currently with forecasts up to 2028. There is currently no provision of Extra Care Housing in the Outer South committee area where Westerton Walk is located.
- 3.8 A Development Agreement has been drafted and provisionally agreed between Leeds City Council and the consortium to carry out the Westerton Walk development in line with agreed plans and specifications and is substantially on the main terms detailed in the confidential appendix. This will ensure that the consortium meets the requirements of the Works and Services Specifications and also gives a timetable for the development as per the call off terms set out in Extra Care Housing for Older People contract DN336766.
- 3.9 As part of the Development Agreement it will be necessary to grant a licence to the consortium to undertake drainage works during the duration of the build programme and following completion, a deed of easement to the consortium to allow access across adjacent council owned land to carry out future maintenance.

#### Socioeconomic benefits resulting from the disposal

- 3.10 The Council have added a contractual requirement to the agreement with the Consortium to ensure that 100% of the new development at Westerton Walk will be affordable homes for rent. This level of affordable housing significantly exceeds the minimum planning policy requirement of 15% for the West Ardsley area.

3.11 Initial financial comparisons on the average cost of residential care (local authority and independent sector provision) versus extra care (based on the actual tendered cost of care package for Westerton Walk provided by the consortium) reveal that Extra Care Housing, even with all care recipients having high care and support needs, provides the opportunity to realise significant system cost savings. Further detail on expected savings to the Council is provided in the 'Resources and value for money' section.

#### Land disposal

3.12 The subject land as indicated by the boundary line on Plan No 17256/AD would be attractive on the open market for private residential development and would be likely to attract a higher purchase price offer for this use rather than for the proposed specialist Extra Care Housing uses. City Development has valued the site on an unrestricted basis. Whilst selling the land for Extra Care Housing use will result in the Council not achieving best consideration for the site in accordance with s123 of the Local Government Act 1972, the socioeconomic benefits of delivering Extra Care Housing, as set out in paragraphs 3.10 and 3.11, must be taken into consideration by Executive Board. Having considered the benefits of the scheme to be delivered, together with the likely revenue savings that will be realised as set out in paragraph 4.44, Executive Board is therefore recommended to approve this sale at a less than best purchase price.

3.13 The amount which the Council is foregoing for the site is included within the confidential appendix.

3.14 Under the terms of the Development Agreement to be entered into with the Council, the consortium will be required to work under licence for the duration of the build programme. The land transfer will complete once the consortium can evidence that the completed Extra Care Housing scheme meets the specification included in the Development Agreement.

3.15 Planning permission was submitted by the consortium in April 2019 following consultation with local ward members and residents, and planning permission was granted in early August 2019.

3.16 Start on site is expected in December 2019, with completion expected before the end of July 2021.

#### Commuted Sums

3.17 On 21st September 2016, Executive Board resolved to utilise Section 106 Affordable Housing Commuted Sums to support the development of a number of affordable housing schemes across the city.

3.18 The report outlined investment proposals to support the construction of an Extra Care scheme to be developed by the Council at Westerton Walk, in Ardsley and Robin Hood, with £162,500 of commuted sums allocated to the scheme. Subsequently, there was a review of the proposed delivery route which was presented to Executive Board in 17th July 2017, outlining a procurement strategy for increasing the amount of Extra Care provision across the city in order to address this growing demand.

- 3.19 Under Leeds City Council Planning policy, targets of affordable rental units exist which are based on the required need in the local area. In Ardsley & Robin Hood this relates to a target of 15% affordable accommodation per scheme. Due to the lack of affordable Extra Care Housing across the city, and separate to the planning process, Leeds City Council required a minimum delivery of 35% affordable rental accommodation at the Westerton Walk site as part of the procurement exercise.
- 3.20 The consortium has subsequently proposed delivering 100% affordable rental accommodation for all units within the scheme subject to a nominations agreement with the Council, however this approach potentially creates a viability gap. Given the criteria for spend and need to deliver affordable housing and the fact that the scheme will deliver significant affordable housing provision above planning policy requirements, it is proposed that the commuted sums identified by Executive Board allocated to this site are granted to the consortium for the scheme at Westerton Walk. By investing the sums in the development, it also provides the opportunity to utilise Ward restricted monies prior to any clawback date being triggered.
- 3.21 A Grant Agreement has been drafted between Leeds City Council and the consortium under the terms of which the Council will agree to advance grant funding to the Grant Recipient from s106 Affordable Housing Commuted Funds to facilitate the delivery of new Extra Care Housing on the Westerton Walk site.
- 3.22 The grant funding provided under the Agreement will be made in compliance with the requirements set out in the European Commission's Decision of 20 December 2011 concerning public service compensation granted for Services of General Economic Interest (2012/21/EU).

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 Consultation has taken place with the Ardsley and Robin Hood Ward Members throughout the duration of the project with regular briefing notes during the pre-tender and tender period. Consultation has also taken place with Executive Member for Health, Wellbeing and Adults, Executive Member for Resources and Executive Member for Communities. Regular briefings will continue to take place for the duration of the project.
- 4.1.2 Council officers and representatives from the consortium met with Ward Members on 15th January and 19th February to discuss the scheme design and usage proposals. Overall the feedback received was very positive and all three Ward Members fully support the development of an Extra Care Scheme on this Site. A Ward Member also provided a supporting comment during the planning process stating: "My ward colleagues and I support this application for much needed support for our older residents on this brownfield site. We have been involved with pre-application consultation. In particular we support the community uses for part of the site which will help tackle social isolation, and although not a part of the planning application itself we support the promise of a local link being part of the allocation process for these units."



- 4.1.3 Ward Members were consulted on 13th March 2019 regarding proposals to dispose of the site to the consortium at less than best consideration and no objections were received.
- 4.1.4 A communications plan has been prepared and implemented for the scheme delivery. This details how the Council and the consortium engage with key stakeholders, including Ward members and local residents, throughout all stages of project delivery. It also describes the multiple consultation events held for local residents which formed part of the statutory planning public consultation process.

## **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 The proposals for Extra Care Housing on the subject land will deliver 41 one bed apartments and 22 two bed apartments for older people with medium to high level care needs.
- 4.2.2 An Equality, Diversity, Cohesion and Integration Screening has been carried out and is attached at Appendix 2.

## **4.3 Council policies and the Best Council Plan**

- 4.3.1 The Extra Care programme directly contributes to one of the Best Council Plan's 2019/20 outcomes of enabling residents with care and support needs to have choice and control.
- 4.3.2 The delivery of the Extra Care programme also contributes to the Housing priority contained within the Best Council Plan 2019/20 by providing the right housing options to support older and vulnerable residents to remain active and independent.
- 4.3.3 The programme supports the delivery of the Better Lives programme through:
- Supporting the health and well-being of older people who wish to live independently
  - Providing an alternative to residential care
  - Ensuring that older people have a wider choice of housing and care options including the provision of person centred care and support
  - Increasing the supply of specialist homes for older people that are for rent, shared ownership and for sale.

### Climate Emergency

- 4.3.4 The consortium has committed to delivering a scheme which offers low running costs to tenants through energy efficient designs and also ensures sustainable operation of the building by ensuring that the development meets the Council's core strategy policies EN1 (Climate Change – Carbon Dioxide) and EN2 (sustainable design and construction).
- 4.3.5 A Travel Plan, which is aimed at promoting greener, cleaner travel choices and reducing the reliance on the private car, has been produced for the development. The Travel Plan will be managed by a Travel Plan Co-ordinator who will carry out a

questionnaire survey of the residents travel patterns and preferences. A subsequent action plan will be developed which aims to promote sustainable travel and reduce the number of car-borne trips.

- 4.3.6 The consortium is committed to offering opportunities for local training and employment and the engagement of local supply chain partners linked to the programme. A 'Meet the Buyer' event will be arranged prior to start on site to encourage local suppliers and the consortium has also committed to engaging with Leeds Building College regarding training and apprenticeship opportunities.

#### **4.4 Resources, procurement and value for money**

- 4.4.1 A multi-disciplinary cross directorate team has been established to deliver the project. This includes representatives from the Council Housing Growth Team, Housing Management, Adults and Health and City Development. The day to day management of the project is led by the Director of Resources and Housing who is working in partnership with the Director of Adults and Health.
- 4.4.2 If the land is sold the Council will cease to be responsible for the current and future maintenance liabilities for it.
- 4.4.3 As this site is not currently in the Council's capital receipt list, the sale of the land will generate an additional windfall receipt in support of the Council's capital programme.
- 4.4.4 Initial financial comparisons on the average cost of residential care (local authority and independent sector provision) versus Extra Care Housing (based on the actual tendered cost of care package for Westerton Walk provided by the consortium) reveal that Extra Care Housing, even with all care recipients having high care and support needs, provides the opportunity to realise significant system cost savings. Based on the minimum projected efficiency saving of £240.00 per week for an individual with high support needs is applied against 100% of the scheme being affordable rent and the Council receiving 100% nomination rights for the Westerton Walk development, this would generate an estimated system cost saving of approximately £786,240 per annum.

#### **4.5 Legal implications, access to information, and call-in**

- 4.5.1 The subject land has been declared surplus to operational requirements and no operational reason has been identified to justify its retention. In these circumstances, where recommended, a disposal represents prudent and economic asset management, obviating holding costs associated with managing the land.
- 4.5.2 The subject site was acquired from Morley Borough Council following Local Government reorganisation and is held by the Council under the Local Government Act 1972. Under s123 of the Local Government Act 1972 the council may not dispose of land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State. This disposal would be permitted by the General Disposal Consent (England) 2003, which permits disposal of any interest in land at less than best consideration where the council considers it will help it to secure the promotion or improvement of the

economic social or environmental well-being of its area, subject to the condition that the undervalue (i.e. the difference between the consideration obtained and the best consideration that can reasonably be obtained) does not exceed £2million.

- 4.5.3 As such the exercise being carried out meets the requirements outlined above and the use of s106 monies also complies with terms under which they were collected.
- 4.5.4 The recommendations in this report are linked to key decisions dated 21st September 2016, 17th July 2017, 21st November 2018 and 19th December 2018 and are not therefore key decisions. The recommendations are subject to call in.
- 4.5.5 The information in the confidential appendix of this report has been identified as exempt because it contains information relating to the financial or business affairs of the council and the consortium.
- 4.5.6 The information contained in the confidential is exempt under Access to Information Rule 10.4 (3) as it contains information relating to the financial or business affairs of a particular person (including the authority holding that information). It is considered that since this information was obtained through one to one negotiations for the property/land then it is not in the public interest to disclose this information at this point in time as this could affect the integrity of the disposal of the property/land. It is considered that the public interest in maintaining the content of appendices as exempt outweighs the public interest in disclosing the information as doing so would prejudice the Council's commercial position and that of third parties should they be disclosed at this stage.

## **4.6 Risk management**

- 4.6.1 The risks associated with the proposed land disposal are outlined in the attached confidential appendix.
- 4.6.2 The risks associated with the proposed development have been identified, and mitigating actions put in place, prior to LCC entering into the Development Agreement:
- The site not being used for its intended purpose – A covenant will be included in the land transfer to ensure that the development will be used for Extra Care Housing or “alternative affordable provision” defined as “any alternative use of the Property to Extra Care Housing which is an affordable use as approved by Homes England and LCC” after completion of the build programme.
  - The agreed specification is not met – The land transfer can only complete once the consortium can evidence that the completed Extra Care scheme meets the specification included in the Development Agreement.
  - The development is not completed before July 2021 – Under the terms of the agreement, the consortium have committed to delivering the scheme by the target date of July 2021 subject to delays caused by Force Majeure events.
  - Poor Contract Management – this will be mitigated through monthly performance meetings with the consortium.
  - Damage to the Council's Reputation – this has be mitigated through a robust communications plan which the Council have developed in conjunction with

the consortium to ensure that local residents, ward members and other key stakeholders are fully engaged at pre-planning stage, through to the construction period.

## **5. Conclusions**

- 5.1 The project will contribute to the Council's strategic objective of delivering the Leeds Vision for Extra Care Housing by working with partner organisations to construct more than 1,000 units of Extra Care Housing by 2028 to meet the growing demand for this accommodation type and population forecasts.
- 5.2 To realise the development of the Westerton Walk site for Extra Care Housing accommodation it is proposed that this surplus land be sold at a less than best the purchase price, as detailed in the attached confidential appendix.
- 5.3 The subject site has been identified for Extra Care Housing due to high levels of demand for such provision in the Outer South locality. Adults and Health have undertaken a comprehensive demand analysis of Extra Care Housing to identify the quantity and type of specialist older people's housing required across the city currently with forecasts up to 2028. There is currently no provision of Extra Care Housing in the Outer South committee area where Westerton Walk is located.
- 5.4 Executive Board has previously considered similar recommendations for the sale of land to Registered Providers at a less than best consideration for the building of affordable housing. This has been in pursuit of housing growth and in recognition of the strategic benefits which will be achieved by the proposed developments. The benefits of the proposed scheme on the subject land include 100% affordable rented units with full nomination rights for the first lettings, followed by 75% nomination rights on subsequent lettings for a period of 60 years; delivering Extra Care Housing in an area where there is a current undersupply; and an opportunity to create employment and training opportunities. In all such cases the terms of disposal would include restrictions to ensure that the site could only be used for the provision of Extra Care Housing.
- 5.5 The Council have added a contractual requirement to the Development Agreement to ensure that 100% of the new development at Westerton Walk would be affordable homes for rent. This level of affordable housing significantly exceeds the minimum planning policy requirement of 15% for the Ardsley & Robin Hood area and will be facilitated by the grant funding of s106 monies, already allocated to the delivery of this site.

## **6. Recommendations**

6.1 Executive Board is recommended to:

- (i) Approve the sale of the subject land to the Consortium identified within the attached confidential appendix at a less than best purchase price and on the terms detailed.
- (ii) Note that the Director of City Development, in consultation with the Executive Member for Resources, progresses with the disposal of the subject land.

(iii) Approve in principle the final terms of the Development Agreement for use on all Package One sites as detailed in confidential appendix.

(iv) Grant approval to enter into the Development Agreement with the consortium;

(v) Agree that any subsequent amendments to the terms of the disposal be delegated to the Director of City Development to approve under the scheme of officer delegation, in consultation with the Executive Member for Resources;

(vi) Note that following a successful procurement exercise, the Director of Resources and Housing, has entered into an agreement with the consortium under delegated powers, and in respect of delivering Package One: *Extra Care Housing for Older People contract DN336766*

(vii) Note the use of s106 commuted sums, as previously allocated by Executive Board.

## **7. Background documents<sup>1</sup>**

7.1 None.

## **8. Appendices**

8.1 Appendix 1 - Confidential under Access to Information Procedure Rule 10.4(3)

8.2 Appendix 2 - Westerton Walk EIA Screening

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<sup>1</sup> The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.