

Request for commuted sums for use at Festival House, Osmondthorpe Lane, to assist in the delivery of 58 affordable Extra Care units

Date: 1 July 2022

Report of: Head of Regeneration

Report to: Chief Officer; Asset Management & Regeneration

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

Appendices 2 and 3 are Exempt as detailed in paragraphs 21 and 22 of this report under Access to Information Procedure Rule 10.4 (3).

### **What is this report about?**

This report requests approval in principle to the use of affordable housing commuted sums from the Council's pooled budget to support the delivery of 58 affordable Extra Care homes at the former Festival Foods site on Osmondthorpe Lane, a challenging brownfield site, shown at Appendix 1.

### **The proposals within the report contribute to many of the city's and council's ambitions:**

- *Best City Priority; Health & Well-being* - Supporting self-care, with more people managing their own health conditions in the community
- *Best City Priority; Sustainable Infrastructure* - Promoting a more competitive, less wasteful, more resource efficient, low carbon economy, through energy efficient homes
- *Best City Priority; Age Friendly:*
  - Promoting opportunities for older people to be healthy, active, included, respected
- *Best City Priority; Housing*
  - type, tenure and affordability in the right places
  - Providing the right housing options to support older and vulnerable residents to remain active and independent
  - Improving energy performance in homes, reducing fuel poverty

Extra Care housing directly contributes to the Best Council Plan outcome of enabling residents with care and support needs to have choice and control to live with dignity and stay independent for as long as possible.

### **Recommendations**

The Chief Officer Asset Management & Regeneration is asked to:

- a) Approve in principle, the use of commuted sums for the development of a proposed Extra Care scheme at Festival House, Osmondthorpe Lane as set out in Exempt Appendix 2, subject to verification of scheme costs.

- b) Authorise that a commuted sum grant agreement be entered into between Housing 21 and Leeds City Council, reflecting the Heads of Terms set out in Exempt Appendix 3, subject to confirmation of final scheme costs within the parameters set out in Exempt Appendix 2 and cost verification as set out in paragraphs 25 and 26.

## Why is the proposal being put forward?

**Wards affected:** Burmantofts and Richmond Hill

Have ward members been consulted?       Yes       No

1. The deployment of commuted sums is managed by the Asset Management and Regeneration service for the purpose of providing affordable housing. Executive Board (November 2018) endorsed clear ambitions for inclusive housing growth through the delivery of a mixed residential community in the city centre and periphery.
2. Housing 21 is a leading not-for-profit provider of Retirement Housing and Extra Care for older people of 'modest means'. It has approached the Council to seek support for delivery of a 100% affordable Extra Care scheme on the site of Festival House, Osmondthorpe Lane, located within Burmantofts and Richmond Hill ward (shown at Appendix 1). It is a challenging brownfield site which will be brought back into positive use. The site is located close to local amenities, including East Leeds Health Centre. The proposed scheme will provide community facilities, open to the public.
3. The currently vacant Festival House site has been identified as an acquisition and development opportunity by Housing 21 for Extra Care housing due to demand for such provision in the Inner East locality. Notably the scheme will offer 100% homes for affordable rent, with the area identified by the applicant as a priority for affordable housing provision as it is classed as an 'area of modest means', meeting Housing 21's organisational priorities. These priorities align with those of the Council, to focus resources on 'priority neighbourhoods' and 'target wards' which are in those areas which score poorly against the national Indices of Deprivation measures, as agreed by Executive Board in November 2017.
4. The scheme will deliver 58 Extra Care homes with communal facilities open to the public including a lounge, café bistro, hair salon as well as WC's, buggy store, activities room, assisted bathroom and guest suite (which will need to be booked through the site manager) and landscaped gardens. 100% of the homes will be let at affordable rent, which significantly exceeds affordable housing planning policy requirements of 15% for the area. For a period of 60 years, the Council will have nomination rights on 100% of these units for the first lettings, and 75% nomination rights on subsequent lettings subject to the approval of commuted sums release.
5. As part of the Better Lives Programme there has been a significant amount of research undertaken by the Adults and Health Directorate 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 3 report in September 2016, endorsed by 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 consideration of the role of Extra Care housing as an alternative model to residential care.
6. In regard to the former Festival Foods site, Housing 21 held discussions with Planning in January 2021, which raised issues including the need to retain the heritage façade of the

building as it is offered some protected status as a 'non designated heritage asset'. Within the pre-app response significant concerns were raised regarding the scale and massing of the originally proposed development, particularly with open greenspace to the rear of the site. In responding to these issues, the proposal had to be reduced by 21 dwellings, resulting in the current proposal for 58 homes. The smaller number of homes required to achieve planning certainty, whilst maintaining a 100% affordable housing scheme results in a significant viability gap.

7. The above issues have meant that there is now a viability impact on the scheme to deliver the 100% affordable target. The viability gap has also been compounded by the rising cost of building materials and labour. It is therefore proposed that a commuted sums grant would be used to support the delivery of the scheme and deliver 100% affordable housing. Given the rapidly increasing market building costs, Housing 21 has recently reconfirmed build costs with the contractor.

### **What impact will this proposal have?**

8. The Adults and Health directorate has undertaken a comprehensive demand analysis exercise to identify the quantity and type of specialist older peoples housing required across the city currently and forecast to 2028. This has revealed a shortfall of Extra Care housing whilst predicting that the demand for residential care will decrease as the aspirations of people to live well in older age increases. There is a current estimated shortfall of 788 Extra Care homes in the city. Considering planned developments from phase 1 and 2 of the Extra Care Programme there will still be a requirement for a further 600 homes by 2028. Whilst further work is being undertaken to review and refine demand forecasts, Adults & Health remains confident that there is still an under-supply of Extra Care housing across the city.
9. Adults & Health and Housing 21 have provided assurances that the reduced 58 home scheme can be delivered effectively in the short, medium and longer term - the proposed size of the scheme will generate sufficient economies of scale for care services to be delivered and sustained.
10. The Osmondthorpe area falls within the Inner East Community Committee area which Adults and Health confirm currently has an estimated under supply of 60 Extra Care homes. There are 64 affordable homes currently being built out at Seacroft Crescent but by 2028 given population growth estimates there will still be an under supply of circa 15 homes and city-wide there is still expected to be an under supply of around 600 – therefore the proposed Festival House development would be supported on that basis. Adults and Health is particularly supportive of this scheme given the 100% affordable offer.
11. Extra Care schemes provide a projected revenue saving to the Council of £240 per week per resident. Details are set out in the 'Resource Implications' below.
12. The proposal will deliver 58 Extra Care homes for older people with medium to high level care needs and in need of affordable housing. An Equality, Diversity, Cohesion and Integration Screening has been carried out and concluded that there is no need for a full Equality Impact Assessment. Housing 21 have comprehensive Equality, diversity and inclusion policies in place to support their management of the resulting housing scheme.

### **What consultation and engagement has taken place?**

13. This decision was advertised as a Key Decision on the Forward Plan from 17<sup>th</sup> December 2021 with a decision unable to be taken until 17<sup>th</sup> January 2022. Only one comment was received on the Key Decision from former Cllr R Grahame, requesting further details. These were provided and no further comments have been received.
14. Engagement has taken place with the Adults & Health directorate as detailed above in sections 8 to 10 above. The service is particularly supportive of this scheme given its 100% affordable nature, the need identified in this part of the city and the proven track record and reputation of Housing 21 in delivering highly successful schemes in Leeds.
15. The Executive Member: Infrastructure and Climate has been consulted and is supportive.
16. All three Burmantofts and Richmond Hill ward members are supportive of the scheme. They have also provided further anecdotal evidence of local need for affordable Extra Care housing provision which supports the demand data provided by Adults & Health.
17. Engagement with Planning has informed the request for commuted sums, through detailed discussions about the scale and massing and therefore number of units able to be provided as part of the scheme (details set out in section 6 above). Housing 21 will submit a planning application once confirmation of a commuted sum award is provided in principle.

#### **What are the resource implications?**

18. Financial support from the Council is requested from the pooled affordable housing commuted sums budget which is confirmed as legal and appropriate for this scheme. Details are set out in Exempt Appendix 2, including cost comparison information with similar Extra Care schemes in the city which are being delivered by Registered Providers.
19. As stated above, Extra Care schemes offer a revenue saving to the Council through moving people out of in-home support into purpose-built accommodation with appropriate care services. It can also make existing affordable housing available for re-letting. Based on the minimum projected efficiency saving of £240 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 the Festival House scheme, the proposed scheme will generate an estimated system cost saving of approximately £723,840 per year when compared to the average cost of residential care (local authority and independent sector provision).

#### **What are the legal implications?**

20. A legal agreement will be drawn up between the Council and Housing 21 setting out the grant requirements including 100% nominations requirements. This would be conditional upon Housing 21 completing the acquisition and vacant possession of the site. Agreed Heads of Terms are attached at Exempt Appendix 3.
21. The information contained in the Exempt Appendix 2 to this report relates to the financial or business affairs of particular persons (including the Council). Information contained in Exempt Appendix 2 and 3 is not publicly available from the statutory registers of information kept in respect of companies and charities. It is considered that since this information was obtained through the grant application process then it is not in the public interest to disclose this information at this time. It is therefore considered that this element of the report should be treated as exempt under Access to Information Procedure Rule 10.4 (3).

22. The Council is only permitted to provide a third party with a State Subsidy in accordance with the Subsidy Control provisions set out in Chapter 3 of Title XI (Level Playing Field for Open and Fair Competition and Sustainable Development) of the Trade and Cooperation Agreement between the European Union and the United Kingdom (“the TCA”). State Subsidy means financial assistance granted by or through public resources which distorts or threatens to distort competition by favouring a particular economic actor, as defined by the TCA. The provision of affordable housing is regarded as a service of public economic interest and is exempt from Subsidy Control provided that certain criteria are met, and the Council considers that these criteria are met for this arrangement. In particular, the nomination rights the Council will have under the nominations agreement will ensure that the funding delivers an appropriate public service obligation, the grant funding for the scheme will be the minimum necessary to provide additional affordable housing above that required by planning and the grant agreement will incorporate provisions to ensure general compliance with State Subsidy obligations. If required, the subsidy will be advertised on the BEIS website.

23. This report is classified as a Key Decision and is subject to Call In.

### **What are the key risks and how are they being managed?**

24. Housing 21 is one of the Council’s established social housing delivery partners and have recently successfully delivered affordable Extra Care schemes at the Primrose development in Boston Spa and Lady Ida Lodge development at the former Cookridge hospital. It has a good track record of delivery operating in nearly 200 local authority areas, managing around 20,000 Retirement and Extra Care Living properties and providing over 42,000 hours of social care each week.

25. The proposed Festival House scheme has been impacted by unforeseen costs, including significant construction cost increases particularly during the last year, which has significantly added to the overall scheme budget in addition to planning constraints identified in section 5. Whilst Housing 21 has sought to absorb these costs and value engineer the development, there remains a viability gap which needs addressing to provide 100% affordable housing at the planning and other regulatory standards required. Should the commuted sums not be awarded as a contribution to this gap, then there is a significant risk of this scheme not going ahead and delivering affordable homes at a level which exceeds planning policy. Given rapidly rising construction costs, Asset Management & Regeneration Panel has requested that an appropriate contingency be added to this request. This is addressed within Exempt Appendix 2.

26 To ensure transparency and value for money, an RICS ‘Red Book’ valuation will be required to confirm the details of the appraisal as part of any agreement for commuted sums grant draw down. Housing 21 has confirmed this is also part of the Homes England grant funding requirements and has confirmed this will be provided in due course one planning permission is in place and final scheme costs tendered.

27 Festival House hosts a telecommunications mast which must be removed before redevelopment can take place. Under the Electronics Communications Code, there are statutory protections in favour of the telecommunications operator. An alternative solution at Nowell Mount, vested with Parks and Countryside has been confirmed. To mitigate the risk associated with the mast, it is proposed that subject to commuted sums approval, the Grant Agreement should also include payment subject to vacant possession.

28 The land is subject to acquisition once the purchaser's due diligence is complete and is subject to a report that offers them 'good and marketable' title, a satisfactory planning approval, grant secured at the required levels to enable the development to proceed and Housing 21 Board approval. Approval of the commuted sum contribution in principle will allow the scheme to progress and the grant agreement is conditional upon Housing 21's acquisition of the site and securing planning permission. The proposed approach is for Housing 21 and the landowner to establish a license agreement so that the contractor can undertake the necessary survey and due diligence work. In parallel, Housing 21 will draw up suitable legal contracts that allow them to exchange contracts for the land acquisition.

### **Does this proposal support the council's three Key Pillars?**

Inclusive Growth

Health and Wellbeing

Climate Emergency

29 The proposed use of commuted sums for this scheme aligns with Leeds Inclusive Growth Strategy (LIGS) ambitions, in particular 'Supporting Places and Communities to respond to Economic Change' and specifically improving housing and quality of place in locations of change to tackle poverty and support growth. The scheme also supports the LIGS ambition of promoting a '21<sup>st</sup> Century Infrastructure' including delivering housing of the right quality, type and range in the right places. Festival House is located within one of Leeds most deprived inner-city wards, it is in an area of need, provides for brownfield redevelopment and in a sustainable location with good public transport links.

30 The proposal meets the priorities set out in Leeds Health and Well-being Strategy, helping to promote Leeds as an 'age friendly city' with environment, transport and housing which promotes independence and social inclusion.

31 The proposed scheme is sustainably located with good public transport links. The applicant 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).

### **Options, timescales and measuring success**

#### **What other options were considered?**

32 There are currently no other proposals for this site which is disused and is currently having a negative effect on local amenity. Discussions have taken place between Housing 21, the Council and the landowner who is keen to release this site for affordable housing as part of their business model for disposals which includes a significant focus on social value.

33 If commuted sums were not available to support this scheme the development would not take place. As such commuted sums will act to unlock the delivery of affordable homes.

#### **How will success be measured?**

34 The drawdown of funds will be subject to conditions as set out in Exempt Appendix 3 which will ultimately deliver 58 Extra Care homes for the community.

35 The scheme being occupied with Leeds residents on the Housing register will also be a measure of success, along with resident and residents' family's satisfaction levels will also assess success and will be collated by Housing 21.

## **What is the timetable for implementation?**

36 The following timescales are envisaged and will be set out in the Grant Agreement:

- Legals and licence arrangement in place to undertake surveys July 2022
- 4/5 months surveys and design work (July - December 2022)
- Planning submitted December 2022
- Planning obtained February 2023
- Site acquisition April 2023
- 24 month enabling works and build programme
- Practical Completion April / May 2025

## **Appendices**

37 Appendix 1: Site Location Plan.

38 Exempt Appendix 2: Financial Information

39 Exempt Appendix 3: Heads of Terms

## **Background papers**

40 None.