

Request to undertake actions that will establish a nominations agreement with developer and landlord Preferred Homes Ltd to 100% of the 63 extra care apartments in the Hunslet and Riverside Ward

Date: 28th September 2022

Report of: Deputy Director Integrated Commissioning

Report to: Director of Adults and Health

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The decision will see commissioning officers enter into direct discussion with developer and landlord Preferred Homes Ltd around Leeds City Council (LCC) holding 100% nomination rights to all 63 apartments that will make up a proposed Extra Care Scheme to be developed in the Hunslet and Riverside Ward. Nominations will be made by the Adults and Health Directorate and will be managed initially through the local social work team. There are no direct costs linked to the nominations agreement, however there will be costs due to care packages linked to nominees. These would be picked up by Preferred Homes Ltd care partner, currently Westward Care, and will be subject to a separate delegated decision around the direct award of a contract Regulation 32 of the Public Contracts Regulations 2015 - negotiated procedure without prior publication of a notice.

Recommendations

- a) The Director of Adults and Health is recommended to approve the request for commissioning officers to complete all necessary work to establish a 100% nominations agreement to all 63 apartments at the Preferred Homes Ltd extra care scheme in development in the Riverside and Hunslet Ward in Leeds. This nominations agreement would be with the landlord Preferred Homes Ltd.
- b) In entering into a nominations agreement with Preferred Homes Ltd the Director of Adults and Health is recommended to note and approve the ensuing work of establishing a contract with the onsite care provider, currently expected to be Westward Care, for the delivery of extra care services. Entering such contract will be completed using the provision under Regulation 32 of the Public Contracts Regulations 2015 - the negotiated procedure without prior publication of a notice.
- c) Commissioning officers on behalf of Adults and Health Integrated Commissioning and colleagues in the General Property Team, Legal Services will be responsible for completing all of the actions covered within this report.

What is this report about?

- 1 This report seeks approval from the Director of Adults and Health for commissioning officers to finalise discussions with developer and landlord Preferred Homes Ltd that will see a nominations agreement set in place to 100% of all 63 apartments at the new extra care scheme they are developing.
- 2 The scheme is to be developed at the former Hunslet Shopping Centre, Hunslet Hall Road in the Hunslet and Riverside Ward and will consist of 51 x one-bedroom apartments and a further 12 x two-bedroom apartments. The scheme will also include lounge and communal recreation areas, meeting rooms, a café and community shop that is accessible by residents and general public, an assisted bathroom facility, quiet rooms on all upper floors as well as staff facilities for management and care provision. All apartments will be set at an affordable rent, i.e. all rents are less than 80% of the rent and service charge of comparable open market accommodation.
- 3 The 100% nomination rights would be for the lifetime of the agreement which, in line with other nomination agreements to affordable apartments, is proposed to be for a period of up to 60 years from the date of the agreement. Any contract with the care provider Preferred Homes Ltd partner with would be separate to this and would most likely run to a maximum of five years in the first instance, including any extension periods. This would be in line with other extra care contract arrangements made by LCC.
- 4 The nominations agreement would be made on LCC terms utilising the template developed by the General Property Team, Legal Services. This is a template that has been used at other extra care sites where LCC holds nomination rights.
- 5 There are no direct financial costs linked to the nominations agreement, which is specifically about access to accommodation. The nominations agreement stipulates that no liability shall devolve on the Council to reimburse the other party for any loss of rent or service charge or for any legal or other costs or fees or any other expenses incurred by that party arising from or in any way connected with the exercise of the nomination rights. It also states that, in situations where the Council is unable to provide a nomination within the agreed timeframe, that Preferred Homes Ltd would be free to place their own nomination on the understanding that any subsequent relet of the property would revert to the Council for its nomination.
- 6 The nominations agreement would see individuals placed in the scheme via a local nominations panel in the first instance. This would consist of at a minimum: LCC local Social Care Team Leader as Chair; Scheme Landlord, who would hold and maintain the expression of interest list, and; LCC Housing Team representative. Best practice guidance for the panel also encourages representation be present for other key parties including: Registered Care Manager of the onsite care and support provider; LCC Occupational Therapist, and; Scheme Link Worker, who is usually a social worker from the local Social Care Team. Once the scheme has reached capacity nominations would be managed through the central extra care panel which sits within the Adults and Health Directorate.
- 7 For an individual to be placed in extra care they will usually have a current or projected care and support need as assessed by Adult Social Care under the Care Act (2014) and as defined by the national eligibility threshold via a Community Care Assessment that is undertaken by the Adult Social Care Social Work Team. This will be required to have been assessed prior to moving into the scheme to establish the nature and detail of this. The onsite care and support service usually provides support with personal care needs where this is in line with the nominated individuals' wishes. As a default arrangement, the onsite provider is recognised as the default provider of choice where an individual has not made any other expression of choice. The nominees would: typically and predominantly be aged 55 years or above; have demonstrable housing and care needs, which are either current or projected; have Leeds as

their normal place of residence, or with a close family association, and; have a current or predicted need for 24-hour / 7-days a week access to emergency onsite support or an ability to benefit from such a service.

- 8 The ideal will be for all 100% nominations to be utilised and all placements to be made via the panel process, however the standard nominations agreement template does recognise that this may not always be possible and allows the landlord to fill apartments from their own waiting list in instances where LCC has no nominations to make. As nominees with care and support needs should be coming through the LCC panel, any placements from such a waiting list would be most likely from individuals with a housing requirement only.
- 9 The financial implications of the nominations agreement come about through the high likelihood that nominated individuals would have varying requirements for planned care and support. This would not be met by the landlord Preferred Homes Ltd but instead would be picked up by the care provider they are partnered with for the scheme, with this care provider currently likely to be Westward Care. These arrangements would be subject to a separate decision and would be set in place using the service specification developed in line with the Leeds Model of Extra Care, which sees all planned care paid for based on hours delivered and does not guarantee any degree of fixed hours or assured business. It is for Preferred Homes Ltd to ensure they are partnered with a suitable care provider who meets the LCC requirements both in terms of quality and price, with commissioning officers working in line with Contract Procedure Rules to put all necessary contractual documentation in place with that care provider.
- 10 All planned care and support costs referenced in this report would exist and need to be met regardless of the extra care scheme and the nominations agreement. If not being picked up in the setting of the Preferred Homes Ltd extra care scheme, the planned care and support would be taking place in the wider community. The nomination of an individual to the extra care scheme does not automatically guarantee any planned care hours and nothing in making the nomination would impede on an individual's freedom to choose a different care provider if they so wished for the delivery of any planned care.
- 11 This position with Preferred Homes Ltd has come about due to proceeding work jointly undertaken by the Environments and Housing, City Development and Adult Social Services Directorates on the projected supply and demand of specialist housing for older people. In a report submitted by Maggie Gjessing and Anna Clifford to the Executive Board on the 19th November 2014 there was a recognised need for further market development in terms of extra care apartments. The report covered how there was a proactive dialogue taking place with commercial providers engaged through open invitation to the market to identify opportunities and that closer working with commercial providers would continue to identify routes to maximise and accelerate the delivery of extra care apartments as part of the wider housing growth programme.
- 12 A following report to the Executive Board by Sue Morseon the 18th March 2015 covered the production of a prospectus led by the Director of City Development to stimulate the commencement of a dialogue between developers and the Council as part of the wider housing growth programme with the aim of encouraging investment to meet the varying housing needs of older people in the city. Following this report the Council produced and launched the Older People's Housing Prospectus, which in its foreword recognised that the Council could not address housing needs alone and was therefore committed to working in partnership with developers, local communities, social enterprises and Registered Providers in order to meet aspirations, provide choice, quality, sustainability and promote independence.
- 13 One place that the Older People's Housing Prospectus was published was through the Housing Learning and Improvement Network (Housing LIN) website in January 2016. The Housing LIN website offers an online facility that aims to bring together housing, health and social care

professionals in England, Wales, and Scotland to exemplify innovative housing solutions for an ageing population. However the Executive Board reports themselves generated interest and enquiries due to the message of market engagement covered within them. It was through this messaging and wider market engagement work that Preferred Homes Ltd became interested in establishing an extra care scheme in Leeds and approached the Council with the proposal to develop such a scheme in the Hunslet and Riverside Ward. Preferred Homes Ltd were not the sole developer to approach the Council to discuss business intelligence and opportunities around extra care, but at the time of writing they are the only developer to pursue nomination rights to affordable rent extra care apartments through this engagement.

What impact will this proposal have?

- 14 The proposal will see a further 63 affordable rent extra care apartments added to the range of apartments already available in the city for LCC to nominate to. This will contribute to the target of having delivered 1,000 extra care units by 2028 as stated in the recently published Leeds Housing Strategy 2022-27.
- 15 The proposal will see LCC accessing the first and only extra care scheme to be introduced in the Hunslet and Riverside Ward. This will ensure that individuals already living in the ward and who require extra care in future have a choice of remaining within their existing ward.
- 16 The proposal will offer more choice to individuals and social workers when looking at options of where to live in instances where extra care is recognised as appropriate.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

- 17 The work of extra care services helps contribute to all of the outcomes stated in the current Leeds Joint Health and Wellbeing Strategy. The nature and ethos of the services contribute to: people living longer and healthier lives; helping people to live full, active and independent lives; ensuring that people's quality of life is improved by access to quality services; involving people in decisions made about them, and; helping people to live in healthy and sustainable communities.
- 18 The main domains of the Best City Priorities as stated in the Best Council Plan 2020-2025 that this report contributes towards are 'Health and Wellbeing' and 'Age-Friendly Leeds'. The contract works towards achieving the outcomes: 'Be safe and feel safe'; 'Enjoy happy, healthy and active lives', and; 'Live with dignity and stay independent as long as possible'.

What consultation and engagement has taken place?

Wards affected: Hunslet & Riverside Ward, though the service is accessible citywide

Have ward members been consulted?

Yes

No

- 19 Notification of this decision was published to the list of forthcoming key decisions on the 8th August 2022. Following the delegated decision panel, the decision will be open to call-in up to 5pm on the fifth working day after the decision is made. Prior to progressing this work any further a voluntary transparency notice will be issued through Find a Tender.
- 20 The Executive Board Member for Adult Social Care, Children's Social Care and Health Partnerships was briefed on the 4th August 2022 regarding the intention to establish a nominations agreement with Preferred Homes Ltd.

- 21 Briefing papers were prepared and circulated to the Ward Members for the Hunslet and Riverside Ward on the 26th August 2022. These briefing papers covered the context of the scheme and the nature of the decision.
- 22 Colleagues within the Service Transformation Team, Adult Social Care and General Property Team, Legal Services have been engaged from a professional aspect in helping to formulate and shape the best approach to take towards setting in place a nominations agreement.

What are the resource implications?

- 23 There are no direct financial implications or costs in connection to the nominations agreement itself. While there are no direct financial implications, there will be indirect financial implications through the future purchase of planned care and support from the care partner identified to cover the scheme. As this is an independently developed scheme, that care partner will be identified and established by Preferred Homes Ltd. This is currently confirmed to be Westward Care and commissioning officers are working under the understanding that this is not subject to change. Arrangements between Leeds Adult Social Care and the care partner will be subject to a separate report covering award of contract in line with LCC's current contracting model.
- 24 All future incurred planned care and support expenditure will be expenditure that would otherwise have taken place as home care within the community under the statutory duties as detailed within the Care Act 2014.
- 25 Based on a community split of 40% high, 30% moderate and 30% low care hours and the current 2022/23 average market rate of £19.23 per hour for extra care, the projected estimated expenditure for planned care and support at this scheme is £439,894 per annum when fully occupied, with an upper projected estimate of £515,876 per annum and a lower projected estimate of £382,908 per annum. This value is subject to change in line with any changes made as part of the annual fee review for externally commissioned adult care services. Table One summarises how the totals reflected here have been reached. The balanced community ratios match the ratios used at other schemes in Leeds, as do the hour bandings. These hour bandings also correspond to the same bandings used by other core cities such as Manchester and Newcastle.

Category of care	Hour Bandings	Hour Bandings Averages	Hour Bandings Lower	Hour Bandings Upper	Ratio	No. of Apts	Hrs Avg p/wk	Hrs Low p/wk	Hrs High p/wk
Low	0-5 hrs	2.5	1	5	30%	19	47.5	19	95
Moderate	5-10 hrs	7.5	6	9	30%	19	142.5	114	171
High	10+ hrs	10	10	10	40%	25	250	250	250
Totals						63	440	383	516

Calculations

Average hours (440hrs x £19.23p/hr) x 52 weeks = £439,894.33

Lower estimate (383hrs x £19.23p/hr) x 52 weeks = £382,908.02

Higher estimate (516hrs x £19.23p/hr) x 52 weeks = £515,876.08

Table One. Underlying values and calculations used to estimate annual values of care and support.

- 26 In terms of value for money, if all 40% of high packages (25 of the 63 apartments) were otherwise placed in residential beds the annual cost of this alone would be £813,800 per annum based on the current annual rate of £626 per week. All remaining hours of planned care and support (190 hours) would cost an additional £12,449 per annum if delivered at the current

urban home care rate of £20.49. At an hourly rate of £19.23 extra care remains more cost effective than residential care for large packages of support up until the package reaches 32.6 hours per week. Even then the model continues to remain cost effective on the whole when benchmarked against residential care as long as any number of remaining high packages of care remain below 32.6 hours per week.

- 27 Completion of the nominations agreement will involve both commissioning officer and General Property Team staff time though, with this being to an existing template, this time should be minimal.
- 28 The goal is to complete all work necessary at the earliest opportunity following the end of the call-in period.

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

- 29 If completing the nominations agreement experiences delays there is a risk that this would place further demands on commissioning and Property Legal Team's time. However preparation has been made to reach this stage ensuring that finalisation of any agreement should take place in a timely manner.
- 30 Another risk would be disputes arising while undertaking the process of finalising the nominations agreement. However, due to the preparation work already undertaken the risk of disputes arising has been minimised and should mean if any do arise they are promptly resolved.
- 31 There is a reputational risk to the Council should the scenario arise that the nominations to the apartments cannot be provided. However demand indicates that there still continues to be a requirement for extra care apartments, the developer is aware of the impact of market fluctuations and the nominations agreement template accounts for scenarios where nominations may not take place.

What are the legal implications?

- 32 As projected expenditure associated with this decision would be in excess of £500,000, this report is submitted as a Key Decision and is therefore subject to call-in. This report does not contain any exempt or confidential information under the Access to Information Rules.
- 33 There is the potential risk of challenge that this should have been treated as a public works contract and therefore subject to the Public Contracts Regulations 2015 and that the nominations agreement is simply a means for the Council to circumvent the application of procurement rules. However, due to the publication of a voluntary transparency notice and the context and existing market engagement set out in paragraphs 8, 9 and 10 of this report this risk is perceived to be low.
- 34 There is a risk of an ombudsman investigation arising from a complaint that the Council has not followed reasonable procedures in engaging directly with Preferred Homes Ltd to establish nominations, and as such resulting in a loss of opportunity. Obviously, the complainant would have to establish maladministration. It is not considered that such an investigation would necessarily result in a finding of maladministration as the Council openly engaged the wider market in both stating the need for extra care and in outlining the Council's appetite to work proactively with the market in meeting that need, however such investigations are by their nature more subjective than legal proceedings.
- 35 Although there is no overriding legal obstacle preventing the course of action set out in this report, the above comments should be noted. In making their final decision, the Director of Adults and Health should be aware of the risk of challenge to the Council and be satisfied that on balance the course of action chosen represents Best Value for the Council.

Options, timescales and measuring success

What other options were considered?

- 36 As part of preliminary discussions the option of utilising the nominations agreement template developed by the LCC Regeneration Team was discussed. This is a template developed to help facilitate and streamline the process of entering into nomination arrangements with Registered Providers, Supported Housing Providers and any other Affordable Housing Providers operating within the Leeds City Boundary. However it was concluded that this agreement was too standardised for this particular scheme and did not provide the additional details around care and support needed for a nominations agreement to an extra care scheme. The care and support element will be reflected into a separate agreement with the care provider.
- 37 The option to do nothing was not considered as the development of the site to offer 63 extra care apartments had come about as a direct result of market shaping and engagement undertaken by LCC with a view to expanding the extra care market in order to meet projected demand.

How will success be measured?

- 38 Success in this case will be decided by the prompt finalisation of a nominations agreement between LCC and Preferred Homes Ltd utilising the existing LCC nominations template. This should help underpin an effective nominations process with clear instruction on how that process is to be conducted which is in line with the wider approach to extra care nominations across the city.

What is the timetable and who will be responsible for implementation?

- 39 In the notice of a forthcoming key decision a target date of the 1st November 2022 was stated as the final date for implementation, though Commissioning officers will seek to complete this work at the earliest opportunity following the end of the call-in period.

Appendices

- Appendix 1: Equality Impact Assessment.

Background papers

- Report to the Executive Board on the Supply of Specialist Housing for Older People, 19th November 2014
- Report to the Executive Board on Developing the range of choices in the older people's housing market, 18th March 2015
- Leeds Housing Strategy 2022-27