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## Report of the Acting Director of City Development and Director of Environments & Neighbourhoods

Executive Board

Date: 27 July 2011

Subject: Site of the Former Wyther Park Primary School Victoria Park Avenue Armley Leeds LS5

### Electoral Wards Affected:

**ARMLEY**

Yes

Ward Members consulted  
(referred to in report)

### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In

(Details contained in the report)

## Executive Summary

In order to utilise Homes and Community Agency grant monies to remediate a contaminated site, this report seeks Executive Board approval to sell the site of the former Wyther Park Primary School, Victoria Park Avenue, Bramley, as identified on the attached plan, on a partial deferred payment basis, in order to allow a community led housing group LILAC, to build a Mutual Home Ownership Society development of 12 flats and 8 houses. Approval is also sought to reinvest part of the capital receipt for the land into a Local Investment Plan priority scheme.

## **1.0 Purpose Of This Report**

- 1.1 The purpose of this report is to seek Executive Board approval to sell the subject site on the provisionally agreed terms contained within the confidential appendix which includes payment of part of the receipt deferred until completion of the development.

## **2.0 Background Information**

- 2.1 Members will be aware of the housing growth challenge and the need to maximise the use of 'brownfield' land for new housing development. Current and emerging government policy encourages community led housing and regeneration projects as one important tool in contributing to new housing supply. The Homes and Community Agency has an important role in enabling community led regeneration projects which seek to assist communities to collectively own, develop and/or manage their own land and have supported such schemes, in some instances through their funding programmes. Councils are encouraged to explore ownership models such as co-operatives, mutual ownership, co-housing and self build schemes as innovative ways of bringing forward new housing supply.
- 2.2 The subject property comprises the site of the former Wyther Park Primary School which was closed as a result of the Primary School Review approved by Executive Board in February 2001. The buildings were subsequently demolished and the site cleared.
- 2.3 Part of the site has been used to construct a 2 storey block of flats for the Independent Living Project. The remainder of the site which extends to approximately 0.72 ha (1.75 acres) is shown edged black on the attached plan.
- 2.4 The site has been declared surplus to requirements and is in the Capital Receipts Programme. The Director of City Development on 18 April 2008 granted approval to sell the site at auction. The site was offered for sale on 15 May 2008 but no acceptable bids were received. It was subsequently decided not to re-market the site until the property market recovers.
- 2.5 The Council was then approached by LILAC (Low Impact Living Affordable Community) a pioneering co-housing project based in Leeds which wishes to buy the site. LILAC's stated aims are to build a member led community of 20 homes.
- 2.6 The proposed scheme comprises 12 flats, 8 houses, car parking, public open space and communal gardens and will include a 'co-house' which is a shared facility for all residents. Facilities for the local community will also be offered including a food co-operative, meeting space.
- 2.7 All buildings will be built to a super-insulated design using Modcell straw bale construction, be part self built and will meet the Association for Environment Conscious Building (AECB) Silver Standard with potential to meet the Passivhaus standard, equivalent to the Code level 5 for Sustainable Homes.
- 2.8 The homes and land will be owned by a Mutual Home Ownership Society (MHOS), a co-operative controlled by its members, the residents. Each resident will have a lease to occupy their house and will buy equity shares in the MHOS up to the value of the build cost of their home. The level of payments will be dependent on household income.

- 2.9 LILAC have been allocated funding from the Department of Energy and Climate Change's Low Carbon Investment Fund for pioneering the use of the Modcell product, which super-insulates prefabricated walls using a straw bale product and render.
- 2.10 To allow LILAC to undertake financial appraisals, carry out site investigations, raise funding and attract members, the Chief Asset Management Officer gave approval on 11 June 2010 to enter into an Exclusivity Agreement and to hold 'one to one' negotiations for a sale of the land.
- 2.11 Site investigations undertaken by LILAC and subsequently verified by experts from the Homes and Communities Agency have revealed that the land is contaminated and it has been estimated that it would cost up to £460,000 to remediate and make good to accommodate residential development. The cost of these works is more than the market value of the remediated land that has been provisionally agreed with the prospective purchaser and is detailed in the confidential appendix attached to this report.
- 2.12 The information contained in the Appendix attached to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in respect of certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the disposal of the property/land then it is not in the public interest to disclose this information at this point in time. Also it is considered that the release of such information would or would be likely to prejudice the Council's commercial interests in relation to other similar transactions in that prospective purchasers of other similar properties would have access to information about the nature and level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of this information will be publicly available from the Land Registry following completion of this transaction and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under Rule 10.4.3 of the Access to Information Procedure Rules.
- 2.13 The Council considers that the land, even with the contamination present, would still attract a capital receipt if it was offered for sale on the open market. The current Market Value has been assessed and is detailed in the confidential appendix. The remediation of the contamination on the land will increase its market value but at a cost which greatly exceeds the increase in value.
- 2.14 The Homes and Communities Agency (HCA), who support the LILAC proposal, have entered into a funding agreement with the Council to provide a grant of up to £460,000 to enable the remediation of the contaminated land. Approval to enter into the funding agreement and for any subsequent spending of the grant was given by the Director of Resources on 23 March 2011.
- 2.15 Prior to any remediation works being commissioned the Council's Geotechnical Section are undertaking additional ground investigations in order to arrive at a schedule/specification of remediation works and cost estimates that will satisfy the end user and provide best value for money. Any unspent grant monies will be returned to the HCA.

- 2.16 The HCA funding is from their Public Land Initiative Programme that seeks to accelerate the delivery of residential development on publicly owned land. A condition of this funding is that the subsequent land sale is on a deferred receipt model that assists developer cash flow to the extent that sites with marginal land value generate improved receipts whilst accelerating physical regeneration. The developer pays for all or part of the land value at completion of the development or at another time to be agreed. Provisionally agreed terms for the sale of the land stipulate that LILAC will pay the current market value upon transfer of the land to them with the remaining monies paid 6 months after completion of the development. LILAC's development programme shows a build period of 24 months and the Council would therefore not receive the balance of the purchase price for 30 months following transfer of the freehold interest. It has also been provisionally agreed with LILAC that the Council's legal and surveyor's fees will be paid by the purchaser based on 3.5% of the total purchase price which will be paid on transfer. Interest will be charged on the deferred element of the purchase price based on the Bank of England base rate plus 3%.
- 2.17 The terms of the funding agreement also stipulate that the Council should make reasonable endeavours to reinvest the deferred receipt, which is the increase in value of the land as a direct result of the HCA funding, into a Local Investment Plan priority scheme.
- 2.18 Should terms for the sale of the land to LILAC not be approved by Executive Board there is provision in the funding agreement for the grant to be repaid to the HCA less any administrative costs incurred by the Council. Remediation works will not be commissioned unless and until such approval has been granted. Should works be carried out but a sale to LILAC does not proceed then the funding agreement stipulates that the Council will make reasonable endeavours to dispose of the site on a deferred sale basis.
- 2.19 Planning permission for LILAC's scheme was granted on 26 May 2011.
- 2.20 Ward Members were consulted by letter on 13 May 2010 and raised no objections to the granting of an Exclusivity Agreement and to enter into one to one negotiations for the sale of the land to LILAC. Due to the time since this consultation Ward Members have again been consulted by letter and e-mail on 14 June 2011 seeking expressions of support for the sale to LILAC by 24 June 2011. Further e-mails were sent on 11 July 2011 requesting any comments and two Ward Members responded on 11 and 12 July 2011 respectively indicating their support for the proposed sale. No response has been received from the third Ward Member.

### **3.0 Main Issues**

- 3.1 The LILAC scheme is supported by the HCA as it will deliver the first Mutual Home Ownership Society in England. The success of this project will have an extremely important role to play in complementing existing community led regeneration options, especially in the context of the emerging Community Right to Build Agenda.
- 3.2 The injection of HCA funding into this scheme will bring forward the regeneration of this site which due to the land contamination and current depressed state of the property market would be unlikely to happen in the foreseeable future.
- 3.3 The initial payment from LILAC, being the current market value of the land will be credited to the Council's Capital Spend Programme. The second (deferred) payment from LILAC will be used to fund a Local Investment Plan priority scheme.

- 3.4 The scheme offers a sub-market housing product catering for a range of incomes that adds to housing choice in this part of Leeds. LILAC has committed to marketing 5 of the homes to people on the Council's housing waiting list.
- 3.5 Having attracted a grant from the Department of Energy and Climate Change for the use of renewable materials, the project will use 'cutting edge' Modcell construction and will be one of the largest residential schemes in the country to do so. Monitoring of the development will provide important data for the sustainable product manufacturers Modcell, helping them to improve their product for use throughout the UK.
- 3.6 Internal fees and revenue will be generated by the works to remediate the contaminated land being carried out by the Directorate of Resources and overseen by Engineers from Highways Services Geotechnical Section.
- 3.7 **Risk Analysis** - It is normal practice when selling land on a deferred payment basis that the purchaser will provide guarantees for the deferred payment and/or accept a charge against the title of the land so that there is certainty that the monies will be paid by the purchaser or any subsequent owner. LILAC are unable to provide guarantees for the deferred payment part of the purchase price and their lenders will not accept the Council putting a charge against the land. The second payment is therefore potentially at risk should the development scheme not complete or LILAC go into administration. This risk is considered acceptable as the Council is receiving an up front payment equal to the current market value of the land. It is the spending of HCA grant monies on remediation of the land contamination that realises the increase in value of the land and therefore it is the HCA who could be said to be taking the majority of the risk. The HCA have been closely involved in the vetting of LILAC's finance and the development appraisals and will continue to be involved with vetting of works contracts/contactors, monitoring on site progress and provide ongoing support as necessary to ensure that the development is successfully completed.

#### **4.0 Implications For Council Policy And Governance**

- 4.1 The redevelopment of this brownfield site will demonstrate the Council's commitment to the re-use of brownfield sites, thereby protecting the environment by relieving the pressure to release Greenfield sites.
- 4.2 The sale of the subject site will bring forward remediation of this contaminated land by attracting HCA investment of up to £460,000 and delivers a new community led housing development which will have a positive effect on the environmental quality and amenity of the neighbourhood.

#### **5.0 Legal And Resource Implications**

- 5.1 The sale of the subject site will raise a capital receipt in support of the Council's Capital Spend Programme and release the Council from any future maintenance liabilities and costs associated with holding this land.
- 5.2 In addition the sale of the land will raise a further capital receipt by way of a deferred payment that may be used in a Local Investment Plan priority scheme.

#### **6.0 Conclusions**

- 6.1 The subject site would not come forward for development in the current market due to the cost of remediation of the land contamination being in excess of its current or potential uncontaminated value.
- 6.2 Spending HCA grant monies and selling the site to LILAC on a deferred payment basis will allow regeneration of the land and facilitate the construction of the first Mutual Home Ownership Society, a form of community led housing, in England.
- 6.3 It is recognised that there is a risk against the deferred payment element of the capital receipt but this risk is primarily with the HCA who are supplying grant monies to remediate the land and therefore realise an increased land value. The HCA are providing support for the proposed scheme and are actively monitoring it to mitigate such risk.
- 6.4 The Head of Property Services confirms that the proposed method of disposal is the method most likely to result in the Council achieving the best consideration that can reasonably be obtained under Section 123 of the Local Government Act 1972 (or under the Housing Act 1985).

## **7.0 Recommendations**

- 7.1 That Executive Board approval is given to sell the site of the former Wyther Park Primary School on a deferred payment basis on the terms outlined in the report.
- 7.2 That Executive Board approval is also given to use the deferred payment received in a Local Investment Plan priority scheme.

## **8.0 Background Papers**

- 8.1 Executive Board February 2001.  
Report of Chief Education Officer 31 January 2006  
Report of the Director of Learning and Leisure 26 October 2006  
Report of the Director of City Development 18 April 2008  
Report of the Chief Asset Management Officer 11 June 2010  
Report to the Director of Resources 23 March 2011