

Forward Plan reference number: FP/368/02/19

Report title: Procurement of two new Extra Care Schemes for Older People, Rocheway and Coppins Court	
Report to: Cabinet	
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Date: 18 June 2019	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 Under the Care Act 2014, the Council is obliged to provide care for Adults with eligible needs. One way of meeting these needs is to support the creation of Extra Care schemes, which are owned and run by Registered Providers, where Adults have their own apartment but where the Council commissions the care services.
- 1.2 The Council has two pieces of land which it proposes to dispose of for the development of two Extra Care Schemes. This report asks Cabinet to agree to hold a competition to select Registered Providers who will acquire the land to develop, manage and provide the onsite care and support service within these two new Extra Care schemes.
- 1.3 Cabinet is asked to approve:
 - the procurement of these two new schemes; and
 - the procurement approach. The procurement of these two schemes will test the procurement approach and associated evaluation criteria prior to the procurement of an Extra Care Framework planned for early next year.

2. Recommendations

- 2.1 Agree to undertake a single stage competitive tender to procure Registered Providers for the development, management and provision of onsite Care and Support Services, including the Peace of Mind service for the following two new schemes at:
 - Rocheway, Rochford; and
 - Coppins Court, Clacton
- 2.2 Agree that the successful tenderer will be awarded a contract or contracts under which:
 - They will receive a transfer of the land for such payment as specified in the tender (which may be nil) on completion of the development works in accordance with the planning permission obtained by Essex County

Council (ECC), subject to ECC entering a restriction on the title requiring nomination rights to be passed on with any sale and that the land is used for Extra Care housing.

- they give nomination rights to ECC for 30 units for rent at Rocheway and 60 units at Coppins Court.
 - They receive an initial five-year contract term for the provision of the onsite Care and Support Services in each scheme, which includes the provision of the Peace of Mind Service, with the option for ECC to extend in five-year periods up to a maximum contract length of 25 years.
 - They must, if ECC requires, allow an alternative care provider to use the office, communal facilities and alarm system if ECC decides to award this contract elsewhere.
 - The cost of the 'peace of mind' service will be paid by residents as part of the service charge.
- 2.3 Agree that the Cabinet Member for Health and Adult Social Care may award the contracts if he is satisfied that the contracts represent best value and are within budget, when costed at expected volumes.
- 2.4 Note that tenderers will be required to state what contribution they are prepared to make towards the value of the land and the design and planning work and site clearance activity already undertaken by Essex Housing.

3. Summary of issue

Background and benefits of Extra Care

- 3.1 ECC is firmly committed to enabling independent and supported living for older people and those of working age with significant disabilities. As stated below, such conditions facilitate better lives but also enhance our sustainability given projected demand. To achieve these goals, we work with the market and other partners, but have also developed the innovative approach of deploying our own surplus land where appropriate.
- 3.2 ECC currently has access to thirteen Extra Care schemes. We aim to meet forecast demand for Extra Care by delivering 530 units of accommodation for which ECC has nomination rights and a total of 650 - 700 new units between 2019 and 2025. This report relates to proposed developments at Rocheway, Rochford and Coppins Court, Clacton which will provide 90 of these 530 nomination rights and another 30 units where ECC will not have nomination rights.
- 3.3 Extra Care schemes support ECC's strategic aim to 'help people get the best start and age well'. The schemes are primarily for people over the age of 55, who are in receipt of six hours or more of domiciliary home care per week and

would benefit from a home environment with 24-hour onsite care and support that enables their continued independence. These schemes also provide the following benefits:

- They help to reduce social isolation and loneliness for Adults through a sense of built communities; that are tailored to the needs of older people, with level access, well-maintained environments and access to meals and social activities
- They offer a personalised service, Adults can choose who provides their personal care, either through the onsite care and support provider or another provider or carer of their choice
- They also help to reduce the risk of falls, anxiety and depression and unplanned hospital admissions
- They improve the lives and resilience of carers and families through 24-hour access to onsite care and support
- Better working environments and conditions for staff; improving recruitment and retention
- They make it easier to provide increased contact time in the care market through consolidation of care in one building and reductions in costs such as travel between home visits
- They can reduce facilities' costs for local community-based groups by providing reduced cost space rentals with ancillary benefits for scheme residents who are encouraged to participate in the activities.

3.4 Extra Care schemes provide benefits to individuals compared to those with similar needs who live in housing outside Extra Care schemes. These benefits are supported by the latest research, published March 2019 entitled 'Measurable Outcomes for Healthy Ageing' by the Centre for Ageing Research at Lancaster University. The research compares circa 160 residents in a selection of Extra Care schemes to circa 30 'control participants' over a five-year period. Key findings are as follows:

- 75% increase in the level of exercise done by residents, increase in walking speed and a reduction in the risk of falls
- Increase of frailty is delayed by up to 3 years
- 23% decrease in anxiety symptoms
- 24% increase in autobiographical memory and 17% in memory recall tests
- 86.5% of residents were 'hardly ever' lonely
- Residents average 3 days less per year in hospital than previously.

The schemes

3.5 Rocheway and Coppins Court are two proposed new Extra Care schemes to be developed in Rochford and Clacton-on-Sea respectively. There will be 60 units/apartments in each scheme. The two schemes are in areas where it is predicted that there will be high Adult Social Care demand, in line with the demand forecasting work carried out in 2018.

3.6 Both schemes are to be developed on cleared surplus land currently owned by ECC. The schemes have been designed by Essex Housing, which are part of the Council, in line with ECC's design guide for Independent Living Schemes,

which embraces the 'Rural Housing for an Aging Population: Preserving Independence' (HAPPI 4) national housing standards for Older People set by central government and have obtained full planning permission.

- 3.7 The proposed scheme at Coppins Court was the subject of a previous procurement exercise and was awarded to a Registered Provider who subsequently withdrew.

Subsidy, land and nomination rights

- 3.8 The approach taken in previous procurements has been to offer a cash subsidy for the construction of the scheme and the provider has received the land at reduced or nil cost. In these procurements it is proposed not to offer a cash subsidy and Registered Providers will be asked to offer a contribution towards the value of the land, as well as the design and planning work and site clearance works that have already been undertaken by Essex Housing.
- 3.9 Providers will be invited to bid for the site. Bids will be evaluated and scored, with a higher contribution receiving a higher number of points. There is a risk, however, that Registered Providers may not offer a contribution towards the land cost as part of their bid.
- 3.10 The land will be transferred to the Registered Providers on a freehold basis once the provider has achieved practical completion of the building. There will also be a restriction on the title of the land to protect ECC's interests, assuring that the building and use of land will remain as Extra Care, unless otherwise agreed between ECC and the Registered Provider and the restriction removed.
- 3.11 To meet the forecast Adult Social Care demand in each district, ECC will hold nomination rights for all 60 units for rent at Coppins Court and half of the 60 units at Rocheway through a nomination agreement for a period of 75 years.
- 3.12 The rent that the Registered Provider can set at the time of the tender will not be a restricted amount and is, instead, based on the Registered Provider agreeing their proposed rental amounts with the respective District Council, prior to bidding to ensure they will be paid. The rental rates will be fixed for the first 12 months and will then be agreed between the provider and the respective District Council thereafter.
- 3.13 For the 30 units at Rocheway, that ECC will not have nomination rights for, there will be no prescribed model of tenure. This is because ECC does not, based on the demand forecast, require the capacity of all 60 units in the Rochford area. The Registered Provider will be able to offer any tenure type in line with anticipated demand. This tenure type could include; shared ownership, outright sale, market or affordable rent.

Contractual Arrangements

- 3.14 Adults nominated by ECC will all have social care needs. All Adults will have access to the onsite Care and Support service, including the Peace of Mind Service. The integration of the management services within the scheme, and

the onsite Care and Support Services (including Peace of Mind) enables the provider to utilise staff across all areas and reduce costs.

- 3.15 The development and management agreement, and the agreement for the onsite Care and Support Services, shall be between ECC and the Registered Provider. The Registered Provider may then subcontract to either their specialist care department or to an external Care Provider, both of whom must be registered with the Care Quality Commission (CQC) for the provision of personal care. The landlord/housing element requires the Registered Provider to be registered with and regulated by Homes England.
- 3.16 The provision of the onsite Care and Support Services within the two Schemes will include:
- a) The provision of packages of planned care for Adults who wish to receive their personal care package through the onsite Care and Support Provider – in practice most Adults choose to have their care supplied in this way;
 - b) The delivery of a 'Peace of Mind' service. The Peace of Mind service provides a 24/7 onsite care presence to respond to any unplanned care needs/emergencies and undertaking regulated activity as required. This service is available to all residents and is a key part of the Extra Care model and is what sets Extra Care apart from Sheltered Housing.
- 3.17 The contract for the provision of the onsite Care and Support Services does not tie ECC or Adults into having to purchase packages of personal care from the Registered Provider (or their appointed subcontractor). Adults (and ECC) have the choice and control to request another Care Provider or carer to provide the personal care as required. Adults will, however, be required to receive the Peace of Mind service from the Registered Provider (or their appointed subcontractor).
- 3.18 It is proposed that an initial five-year contract will be awarded for the provision of the onsite Care and Support Services to the appointed Registered Provider, with the ability to extend the contract in five-year increments up to a maximum term of 25 years.
- 3.19 Building in the ability for ECC to extend the contract to a maximum of 25 years enables continuity of service, whilst allowing for ECC to review arrangements at regular intervals. The contracts will include a price review mechanism for each five year period, ECC will then benchmark the prices offered by the Registered Provider against the rest of the market. In the event that the prices offered by the Registered Provider are not competitive, ECC will be entitled to exercise its right to procure an alternative provider. It can use provisions within the contract that compel the Registered Provider to give access to communal areas and alarm systems to an external organisation.
- 3.20 Hourly rates for personal care and costs for the Peace of Mind services will form part of the award criteria for the procurement process. As such, ECC will assure that best value is being achieved at the outset of the provision of Care and Support Services.

3.21 The prices submitted will be fixed for the initial five-year contract period, although ECC will have the absolute discretion to increase rates during this five year period if it so wishes. This is consistent with ECC's general approach to increasing prices for care services delivered to Adults.

3.22 The Service specification and Performance Standards within the care and support contract will:

- require that the onsite Care and Support Provider, as a minimum, meets ECC's quality standards and adheres to the service delivery model for Extra Care.
- Ensure that Adults receive high quality services that provide a personalised service that maximises independence.
- Ensure there is a strong emphasis on schemes becoming community hubs, benefiting the wider community as well as Adults living within the scheme, promoting a thriving vibrant community.

There will also be Key Performance Indicators and Management Information for the Provider to report on and for ECC to monitor.

3.23 The Peace of Mind service cost in the more recent Extra Care schemes is included as part of the service charge and housing costs and is paid for by Adults to the Landlord. This does not comply with the charging approach in the older Extra Care schemes where the service is provided free of charge for all Adults, regardless of assessed need and ability to pay. It also does not comply with ECC's usual approach to charging. A review is currently being carried out to inform the future charging approach in all Extra Care schemes. Once there is a recommended proposal, a further decision will be taken with any appropriate consultation carried out, including with Adults. This review will not affect the Peace of Mind rates but how the Peace of Mind costs are paid. Bidders will be made aware that this work is underway.

Procurement Approach

3.24 It is proposed there will be a single stage competitive tender process complying with the 'Light Touch' regime of the Public Contract Regulations 2015. There will be a longer tender period to account for the complexity of the tender as it requires responses from Registered Providers to cover the development of the scheme, management of the facilities, and delivery of the onsite Care and Support Service.

3.25 Both schemes will be procured at the same time but under different 'lots' so each scheme could be awarded to different Registered Providers dependent on the assessment scores.

3.26 The high-level timescales for the procurement, mobilisation and scheme development are:

Activity	Timescale
Tender release date	End June 2019
Contract award	Mid October 2019
Scheme development mobilisation	Mid October – January 2020
Start on Site	From January 2020
Scheme completion/opening	During 2021/22 – target date to be agreed with Registered Provider/s

3.27 All Registered Providers will be assessed on the basis of a 70:30 price : quality split in line with the usual ECC approach and the following price and quality criteria:

Price	Quality Criteria
<p>The price element will be based on the following areas, with weightings for each area to be agreed and defined:</p> <ul style="list-style-type: none"> • Care Rates (per hour) • Rents and service charges (on ECC nomination rights units only) • Contribution to land cost. (Should the submission include a contribution of £1 for the land value they would score 0 for this section) • Peace of Mind rate. (Although this will be paid by the Adult the submitted rate will form part of the commercial evaluation) 	<p>The quality criteria will be based on the response from each bidder to a number of technical questions, and these questions will be assigned a weighting, dependent on its relative perceived importance.</p> <p>The questions will cover a number of areas, including: development and construction, management and facilities, the delivery of care and the Peace of Mind service within the scheme, use of schemes as community hubs, promotion of social inclusion, innovative practice, use of technology etc.</p>

4 Options

4.1 A number of options were considered including:

4.1.1 **Option 1:** Do nothing and let the sites be used for private housing/other uses. This approach is not recommended as it would not help ECC to build capacity to offer alternatives to residential care.

4.1.2 **Option 2:** ECC to undertake the development for each scheme and undertake a single stage competitive tender for the management and onsite Care and Support Service. This approach is not recommended as ECC does not have the experience of developing Extra Care schemes and it would mean ECC borrowing the full costs for development and management of the scheme, which would significantly increase risks.

4.1.3 **Option 3:** Undertake a single stage competitive tender for the development and management only for each scheme and then, closer to scheme

completion, undertake a single stage competitive tender for the onsite Care and Support service. This approach is not recommended as the market feedback is that providers would prefer to provide the care and if ECC does not offer the onsite Care and Support Service as part of the tender there is a risk of fewer bids being received.

- 4.1.1 **Option 4 (recommended):** Undertake a single stage competitive tender for the development, management and onsite Care and Support Service for each scheme. This is the recommended option as the preferred approach from the market and the most likely to attract the largest number of bidders, as well as the most likely to achieve best value. It also does not tie ECC or the Adults into having to purchase personal care from the onsite Care and Support Provider. Adults will however be required to receive the Peace of Mind service from the Registered Provider (or their appointed subcontractor) unless ECC decides to hand this over to another provider in accordance with its rights under the contract.

5 Issues for consideration

5.1 Financial implications

- 5.1.1 The level of financial impact will be dependent upon the contribution secured towards the land. If no contribution is received towards the cost of the land, ECC would be foregoing capital receipts of £254,000 for Rocheway and £688,000 for Coppins Court, which could have been achieved through disposal of land on the open market.
- 5.1.2 Additionally, as capital receipts are used to fund the wider ECC capital programme, the implication of no capital receipts or contribution to the land will result in a requirement to borrow a similar amount to fund the capital programme, resulting in a borrowing cost of 3% plus MRP contributions.
- 5.1.3 Assuming a zero contribution towards land value, based on the expected annual average net saving per unit at 2019/20 prices (i.e. today's values annually adjusted for inflationary increases) the payback period for Coppins Court would be 13 years and for Rocheway would be 11 years. Note, this calculation assumes an annual opportunity cost of foregone capital receipt (cost of borrowing and MRP contribution).

Site	Market Land Value	Annual Average Saving Total	Annual Opportunity Cost of Foregone Receipt	Annual Average Net Saving Total	Payback
Coppins Court	£688,000	£144,589	(£40,297)	£104,292	13 Yrs
Rocheway	£254,000	£63,607	(£14,877)	£48,730	11 Yrs

- 5.1.4 Finally, with both sites there is a development opportunity foregone. Essex Housing are currently delivering circa 20% profit on cost on similar sites in

Essex, therefore depending on the development potential on both these sites there are further capital receipts that will be foregone which could have otherwise been used to help fund ECC capital requirement and reduce borrowing costs. However, this would not achieve the policy objectives for extra care living identified throughout this report.

- 5.1.5 The cost of personal care services in the two schemes will be funded by existing care budgets for Older People in the Adult Social Care revenue budgets. Residents placed in the scheme would have otherwise received home care provision in their own homes or would have been placed in more expensive residential care placements. Peace of Mind service costs will be paid directly to the Registered Provider by the residents.
- 5.1.6 Based on volumes and prices of care and support services seen in similar schemes it is estimated that the total cost of care provision, for a total of 90 nomination rights in the two schemes, will be about £1.5m per year at expected 2019/20 prices. However, the contract for care services will not guarantee the provider a minimum volume of care hours; actual volumes will depend on the needs mix of adults placed within each scheme. These costs are provided for in existing Adult Social Care purchasing budgets.
- 5.1.7 The floor price for the care provision aspect of the procurement will be set at 10% below the lowest price in the 2019/20 Live at Home (LAH) framework for the tender, with the ceiling price in line with the highest rate in the LAH framework. Efficiencies should be achievable in Extra Care schemes as care is delivered in one establishment, which should lead to lower travel costs and higher rates of staff retention. Bids submitted outside of this range will be disqualified.
- 5.1.8 Cost avoidance savings will be refined once care rates are finalised and will be added as new savings to the Medium Term Resource Strategy. These represent new benefits which will contribute to closing ECC's funding gap. Requests for inflationary uplifts will be managed as set out in paragraph 3.20.

5.2 Legal implications

- 5.2.1 The Council has the power under the Local Government Act 1972 to acquire land and power under the Local Authorities (Land) Act 1963 to develop land for the improvement or development of its area. The aim of this scheme relates principally to ensuring that housing is available to meet the needs of Essex residents.
- 5.2.2 The transfer of the freehold of the two sites to the winning Registered Provider, whether for a tendered price or a nominal value, is consistent with the Council's duties under s123 Local Government Act 1972 as the value of the land is less than £2m.
- 5.2.3 The procurement of the Rocheway and Coppins Court schemes will need to be procured in accordance with the Public Contracts Regulations 2015.

- 5.2.4 Whilst the scheme itself is not required to be registered with the Care Quality Commission (“CQC”), the Provider is required to be registered with the CQC as a domiciliary care provider. There is a risk that regulatory change occurs during the term of the contract, in which case the provider will be required to comply with these changes and ensure registration with the relevant regulatory body. This may require the provider to make changes to the scheme in order to secure regulatory standards and there is a risk that they will be unable to afford to do this.
- 5.2.5 The works to the sites and the services to be provided will be set out in written contracts between the Council and the provider, on the Council’s terms. The Council will, also, enter into a property agreement with the provider relating to the transfer of the land upon practical completion of the building.
- 5.2.6 These documents will govern the relationship and protect the Council’s position, for example the Council has nomination rights so can nominate individuals to live in the scheme but is not contractually obliged to place any individual in the scheme, as the Council will not guarantee a minimum number of individuals to be placed in the scheme.
- 5.2.7 Where the Council does not exercise its nomination rights, the provider will be able to place an alternative individual in the scheme. Failing to nominate quickly could therefore lead to Extra Care capacity within these areas being occupied by people to whom ECC does not need to ensure are appropriately accommodated.
- 5.2.8 The scheme will be structured so that a resident will not be at risk of losing their home if the Care and Support provider was not meeting its contractual requirements and needed to be changed. This scheme will permit the Council to have greater oversight of the scheme, which will be set out in the contract, with no greater risk to the Council.
- 5.2.9 The Contracts with the Registered Provider for the provision of onsite Care and Support Services will contain the mechanism for agreeing prices for each five year period. The Council will then benchmark these prices against the wider market. Where the Registered Provider’s proposed prices do not demonstrate best value, the Council will be permitted to procure an alternative provider through a public tender process. The Registered Provider would be entitled to tender as a part of this process but would only win if it provided the best bid.
- 5.2.10 The conditions of the Contracts with the Registered Provider will compel the Registered Provider to permit access to the communal areas and alarm systems to any providers appointed by ECC following the completion of a tender process. This will avoid the risk of the Council being tied to one provider for the duration of the 75 year nomination period.
- 5.2.11 These schemes are only viable if an appropriate rent can be agreed with the district council. There is therefore a risk that the schemes will be unviable unless appropriate rents can be agreed with the district council. It is also possible that funding sources change over the 75 year life of the scheme.

There is therefore an inherent risk with developing schemes of this nature and officers cannot provide assurance that the scheme will remain long term viable, although clearly that is the hope.

6 Equality and Diversity implications

6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

6.3 The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7 List of appendices

7.1 Appendix One: 'Integrated Homes, Care and Support. Measurable Outcomes for Healthy Ageing', ExtraCare Charitable Trust, March 2019.

7.2 Appendix Two: Equality Impact Assessment.

8 List of Background papers

None