

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

<b>Report title:</b> Extra Care – Approval to Award Procurement for Coppins Court	
<b>Report to:</b> Cllr John Spence, Cabinet Member for Health and Adult Social Care	
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<b>Date:</b> 10 July 2020	<b>For:</b> Decision
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<b>County Divisions affected:</b> Tendring	

This report includes a confidential appendix which is **not for publication** by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

## **1. Purpose of Report**

- 1.1 Helping people to live as independently as possible is a key strategic aim of Essex County Council. Creating extra-care facilities is an important way of doing this, helping older people to retain a good quality of life, living independently within a safe environment.
- 1.2 The purpose of this report is to pursue this important strategy by seeking approval to award contracts for the development and operation of an Extra Care Scheme at Coppins Court, Clacton-on-Sea, following completion of a procurement process conducted in accordance with the Public Contract Regulations 2015.

## **2. Recommendations**

- 2.1 To agree to award contracts for the development and operation of a new Extra Care Scheme at Coppins Court, Clacton-on-Sea, to Orwell Housing Association.
- 2.2 To agree to enter into a Development Agreement with Orwell Housing Association to govern the development of the Extra Care Scheme at Coppins Court.
- 2.3 To agree to enter into a 75-year Nomination Agreement with Orwell Housing Association to grant Essex County Council (ECC) rights to nominate residents to live within the Extra Care Scheme at Coppins Court.
- 2.4 To agree to enter into an Operational Agreement with Orwell Housing Association for an initial period of 5 years with the option to extend for a

further four 5-year periods up to a maximum contract length of 25 years. The Operational Agreement details Orwell Housing Association's obligations in relation to the delivery of care and support services, and the general operation of the Extra Care Scheme.

- 2.5 To authorise the transfer of land at Coppins Court, Clacton-on-Sea, to Orwell Housing Association on a freehold basis with a restriction on the Title that states that the land must remain for the use of an Extra Care Facility. No further subsidy will be payable for the development of the scheme.

### **3 Summary of issue**

- 3.1 ECC have undertaken an OJEU-compliant procurement process in order to identify suitable bidders for the development and operation of a new Extra Care Scheme in Tendring.
- 3.2 Land at Coppins Court, Clacton-on-Sea, was identified for this purpose and offered to the market on the condition that the land would be utilised for the development of a 60-unit Extra Care Scheme with all 60 of those units being made available on affordable rents.
- 3.3 In total, one bid was received. Following evaluation, it was found to be compliant with the defined minimum criteria enabling an award to be made. Orwell Housing Association have a strong presence in the Eastern Region already providing services across Essex, Cambridge, Suffolk and Norfolk, including 12 Extra Care Schemes. The evaluation criteria included completing a Financial Standing evaluation, defining how the project will be financed, as well as detailing the team who will be constructing Coppins Court and then operating the service once operational.
- 3.4 ECC will hold nominations rights for all units within the scheme and may nominate appropriate adults that meet the criteria for admission to the scheme to take up a tenancy.
- 3.5 ECC will need to enter into two agreements with Orwell Housing Association:
- 3.5.1 Development Agreement – which sets out obligations relating to design, planning, and construction of the scheme, including long-stop dates and conditions precedent which must be adhered to and will ensure the delivery of the new scheme within reasonable timescales.
  - 3.5.2 Operational Agreement – sets out the obligation for the management of the Extra Care scheme to minimum standards, including the requirements on the delivery of care and support services within the scheme. This additionally contains the nominations agreement which grants the nomination rights to ECC. This agreement will continue for a period of 5 years from the date of commencement.

- 3.6 ECC will not contribute towards the costs of operating the Extra Care scheme and will not pay for void units within the scheme. The Peace of Mind service (Peace of Mind) will form part of the tenancy agreement and the payment of charges relating to the 24/7 service will be payable by the tenant directly.
- 3.7 Whilst ECC will retain nomination rights for the scheme, there will be no obligation on ECC to place adults with the on-site care provider for the provision of their one-to-one care needs. The provision of Peace of Mind, which is an on-site service which ensures that care needs are met if required, is limited to the on-site care provider only. ECC will be able to offer direct payments to adults to make their own arrangements for their one to one care, and to place managed packages with any provider they wish.
- 3.8 The commercial rates specified in the procurement, which includes the Peace of Mind and hourly care rate, of the new Extra Care scheme were submitted at tender stage and these figures will be capped for the first year after the opening date of the scheme. Increases to these rates are governed by the terms and conditions within the Operational Agreement. Any increases applied to the Extra Care market will also be applied to the commercial rates, which would be included in a subsequent decision paper.

## 4 Options

### 4.1 Option 1 – Agree to Award the Contracts

#### **This is the recommended option.**

The key advantage of this option is that it will make a significant contribution to the quality of life of a number of older people in the Clacton area, enabling them to live as independently as possible. In addition, this scheme has been awarded as a result of a full procurement process so can be objectively said to provide best value for the Council. Aside from the commitment of land, the award of these contracts does not tie ECC into any ongoing expenditure for care services or charges related to accommodation.

The disadvantages of this option are that ECC will give up ownership of the land at Coppins Court, Clacton-on-Sea. There is also a risk arising from the number of extra care schemes that are already within Tendring, with two 60unit schemes, in Walton-on-the-Naze and Harwich respectively, and a further 30 units in Clacton-on-Sea. It could prove more challenging to fill a new scheme in this location based on the supply and demand here at present. However, demand modelling shows that there is good demand for the scheme and it is situated in an excellent location, close to health, social and leisure amenities

### 4.2 Option 2 – Decline to Award the Contracts

The advantages of this option are that ECC would retain ownership of the land committed at Coppins Court. It would also reduce any risk of failure to fill the scheme and access revenue savings associated with this.

The disadvantages of this option are that not awarding the contracts will result in reputational damage to the Council among the supply market; bidders on these tenders have committed a significant amount of time and work to bid across both stages and this will have financial implications for them. This also means that the site would have to be re-assessed and re-deployed for alternative use or re-tendered for Extra Care if that was considered the best use of the land. This will use internal resources and, in some cases, may end up duplicating them, resulting in inefficiencies for the Council.

## **5 Next steps**

- 5.1 This paper will be submitted to the Cabinet Member for Health and Social Care for decision.

## **6 Issues for consideration**

### **6.1 Financial implications**

- 6.1.1. As described in section 3, the bid was evaluated in accordance with the criteria published as part of the procurement.
- 6.1.2. The bid from Orwell Housing Association was awarded the highest possible score for price and quality combined for the development and operation of the Extra Care Scheme at Coppins Court.
- 6.1.3. The cost of personal care in the scheme 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. The cost of the Peace of Mind service will be paid directly to the Registered Provider by the residents.
- 6.1.4. Expenditure on personal care in the scheme is estimated to be £649,000 per year once expected occupation levels are reached, this is based upon:
  - 6.1.4.1. the average volume of personal care services seen in similar schemes
  - 6.1.4.2. 95% occupancy in the 60 units for which ECC will have nomination rights
  - 6.1.4.3. The hourly rate submitted (shown in the confidential appendix to this report).
- 6.1.5. The contract for personal care services will not guarantee the provider a minimum volume of care hours; actual volumes will depend on the needs mix of the adults placed within the scheme.

- 6.1.6. Cost avoidance savings of £19,700 are assumed in the Medium-Term Resource Strategy (MTRS) for 2021/22 with a further £41,500 in 2022/23. However, any slippage in the anticipated timescale for development of the scheme to completion in 2022/23 will require savings to be re-profiled and mitigation for the shortfall identified. A review of the timeline will be undertaken as part of the MTRS process in the autumn, along with changes in the timelines for other extra care schemes.
- 6.1.7. A transfer of land will be made to the provider in lieu of a Capital subsidy grant – no additional funding or assets will transfer in relation to this scheme. The land will transfer at practical completion, which is anticipated in March 2022.
- 6.1.8. The contribution to land value from the developer is set out in the confidential appendix to this report, along with the expected pay-back period. As capital receipts are used to fund the wider ECC capital programme, the implication of foregoing a capital receipt not wholly equal to value of the land transferred to the provider, will result in a requirement to borrow a similar amount to fund the capital programme, resulting in a borrowing cost of 3% plus Minimum Revenue Provision (MRP) contributions.
- 6.1.9. Finally, with this site 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 of this site 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.

## **6.2. Legal Implications**

- 6.2.1 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.
- 6.2.2 The transfer of the freehold of the site to the winning bidder, 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.
- 6.2.3 The procurement of the Coppins Court schemes was conducted in accordance with the Public Contracts Regulations 2015.
- 6.2.4 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.

- 6.2.5 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.
- 6.2.6 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.
- 6.2.7 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.
- 6.2.8 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.

## 7 List of appendices

Equality Impact Assessment  
Confidential Appendix

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>
Cllr John Spence, Cabinet Member for Health and Adult Social Care	<b>17.07.2020</b>

**In consultation with:**

<b>Role</b>	<b>Date</b>
<b>Director, Finance and Procurement Section 151 Stephanie Mitchener</b>	17.06.2020
<b>Laura Edwards, on behalf of the Monitoring Officer</b>	04.06.2020