

Forward Plan reference number: FP/050/02/23

Report title: Essex Housing LLP – Consent to dispose of Land in Epping Forest	
Report to: Cabinet	
Report author: Councillor Lesley Wagland, Cabinet Member for Economic Renewal, Infrastructure and Planning	
Date: 18 April 2023	For: Decision
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County Divisions affected: Waltham Abbey	

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Everyone's Essex

- 1.1 Essex Housing is Essex County Council's (ECC) in-house development arm which works with public sector partners across Essex. Essex Housing's purpose is to address housing need throughout the county by building high quality specialist, private and affordable homes. Essex Housing delivers schemes through ECC as well as the Essex Housing Development LLP (LLP).
- 1.2 Essex Housing Supports the strategic aims of Everyone's Essex by delivering more new homes and communities as part of ECC's ambition for 'a strong, inclusive and sustainable economy' and contributes to the commitment towards 'future growth and investment' by maximising the impact of public sector spend within the county by generating surpluses for reinvestment and creating new opportunities to achieve social value through development. Essex Housing:
 - 1.2.1 supports **the economy** by creating new jobs and working with local contractors.
 - 1.2.2 benefits **the environment** by developing in a sensitive way and including sustainable measures on sites such as EV charging, solar panels, heat pumps as well as a scheme of net zero homes.
 - 1.2.3 support **children and families** by providing good quality housing in an appropriate mix of type and tenure, central to giving children the best start in life.
 - 1.2.4 promote **health, care and wellbeing** for all residents by providing good quality homes and neighbourhoods. We also promote the wellbeing of some of our most vulnerable residents by creating homes that enable them to live independently.

- 1.3 This report concerns the redevelopment of the former Shernbroke Hostel which will enable the development of new, sustainable and energy efficient apartments in Waltham Abbey for the open market alongside new independent living units for adults with learning disabilities. This will provide new homes, create jobs, and importantly provide much-needed specialist homes that will enable those living with disabilities to live independent lives, which supports Essex County Council's levelling up ambitions.
- 1.4 The scheme also ensures that all new homes built are high quality, sustainable and energy efficient. The building will be fitted with photo voltaic cells to generate renewable energy, and there will be access to electric vehicle charging points across the development to encourage the use of more sustainable transport. This supports the strategic aim of Everyone's Essex to create a high-quality environment for our residents by helping reduce residential carbon emissions and support the uptake of more sustainable transport methods, as well as creating great places for our residents to live. There will also be an emphasis on high quality external space with landscaping across the site.
- 1.5 The purpose of this report is to give permission to Essex Housing Development LLP (LLP) to dispose of the freehold (including all other units) to a single purchaser and enter into a long leasehold to dispose of the carer's apartment to ECC once construction, which is currently underway, is complete.

2 Recommendations

- 2.1 Subject to the prior grant of the lease of the carer's accommodation as set out in 2.2 below and the nomination agreement as set out in 2.3 below, agree to the disposal by the LLP of the freehold ownership of the land shown edged red on the Plan appended to this report ('the Site') to Chelmer Housing Partnership as set out in the Confidential Appendix.
- 2.2 Agree to the disposal of the long leasehold ownership of the single carer's apartment to ECC by the LLP and for ECC to acquire the leasehold ownership of this apartment from the LLP for the price shown in the Confidential Appendix as previously agreed at Cabinet in May 2022 (**FP/330/03/22**).
- 2.3 Agree that ECC will enter into a nomination agreement with the purchaser giving it nomination rights to the 9 specialist housing units for a period of 250 years from the date of the transfer.

3 Background and Proposal

- 3.1 The Site is the former Shernbroke Hostel in Waltham Abbey and is owned by Essex Housing Development LLP with an area of 0.39ha. It is located on Shernbroke Road just over a mile from Waltham Abbey town centre in a primarily residential area. The property formerly comprised of several residential care buildings which were dated and no longer fit for purpose exposing the Council to ongoing maintenance liabilities.

- 3.2 In April 2018 (**FP/121/04/18**), ECC approved a proposal to redevelop the site for private and specialist units for adults with learning disabilities, to be delivered by the LLP. Significant progress has been made bringing this project forward and a resolution to grant planning permission was achieved on 16 March 2022 for 26 units.
- 3.3 In May 2022 (**FP/330/03/22**), ECC agreed to transfer the site to the LLP and provided a development loan to enable them to procure a construction partner. Following a procurement exercise carried out by the LLP the construction contract was awarded in August 2022 to build the scheme.
- 3.4 In November 2022, having regard to changes in interest rates and the value which can be obtained by disposing of the site for social housing, the Managing Director decided to carry out a marketing exercise for the disposal of the LD units and the disposal of the whole site to one purchaser. This has not been attempted on previous schemes and the reason for this and the bids received is set out in the Confidential Appendix.
- 3.5 Usually, the LLP disposes of private units to individual purchasers however in this instance an opportunity has arisen to negotiate a single transaction to sell the entire site once construction is complete. The LLP is therefore currently in discussions to sell the site freehold including the 26 units for the figure included within the Confidential Appendix. As a single aggregated transaction for the sale of the freehold is over £2,000,000, the LLP requires the Council's approval to dispose of the units as outlined in the reserved matters of the LLP.
- 3.6 By agreeing a freehold sale with one purchaser for the 26 units (private and learning disability) this would mean that marketing and sales costs are reduced. This single contract will result in a guaranteed sales receipt at the agreed deposit date and at practical completion of the scheme. This reduces borrowing costs and results in the level of capital receipt being known at an early stage rather than relying on individual sales. This also has the benefit of the scheme being protected from any future fall in house prices. There is also additional social value that will be gained from the project by selling to a Registered Provider if the units are used as affordable housing, which we understand is likely.
- 3.7 Discussions have been held with respect to nomination rights of the nine specialist units. Chelmer Housing Partnership have agreed to grant ECC nomination rights for 250 years. This will align with the leasehold interest of the carer's unit.
- 3.8 The development of land at Shernbroke strongly supports the delivery of the Council's plan, 'Everyone's Essex', providing a high-quality environment, strong, inclusive and sustainable economy, promoting health, wellbeing and independence for all ages.
- 3.9 The project is currently under construction with completion due in January 2024 and this report seeks authority to dispose of the freehold ownership for the site

and leasehold ownership of the carer's apartment to ECC once construction is complete.

Essex Housing

- 3.10 Essex County Council established Essex Housing in 2016 to work with public sector partners throughout Essex to identify and bring forward land and assets for development. It is now seven years into that journey and has established a significant and exciting development programme that will deliver great quality, sustainable homes and create fantastic places to live, while reinvesting returns into important public services and improved outcomes for the residents of Essex.
- 3.11 Essex Housing works with public sector partners across the county to develop land for the benefit of Essex, specifically in order to help address general, specialist and affordable housing need. By developing with a social conscience, Essex Housing enhances important assets, putting design, quality and sustainability at the forefront of what it does and shaping places that Essex can be truly proud of, all while reducing the burden on the taxpayer, generating capital receipts and delivering revenue benefits.
- 3.12 In July 2020, ECC Cabinet agreed to the establishment of a limited liability partnership, Essex Housing Development LLP ((FP-692-05-20) Essex Housing Optimisation Project) to carry out development activity. The LLP was created as part of a project to optimise Essex Housing to deliver our growing ambitions for housing development. The LLP can act with a greater degree of commercial flexibility and agility that enables it to deliver schemes at greater pace and scale, while still remaining accountable to Essex County Council. It also gives Essex County Council greater financial flexibility to use surpluses to fund capital or revenue expenditure. This scheme is being constructed by Essex Housing LLP.

Summary of project

- 3.13 The freehold of the Site is currently owned by the LLP. Following a decision taken by ECC in 2018, ECC agreed to progress the scheme to secure planning permission and explored the option of re-developing the site to provide nine specialist units for adults with learning disabilities (plus one carer's apartment which was to be sold to ECC) and 16 units for private sale.
- 3.14 Planning permission for the scheme was obtained in March 2022.
- 3.15 In May 2022, ECC agreed to transfer the site to the LLP and provided a development loan to enable them to procure a construction partner. Following a procurement exercise carried out by the LLP the construction contract was awarded in August 2022. Construction is underway and is due to complete in February 2024. Once the units are complete the units will be sold. Income has come to the Council from the sale of the land to the LLP, plus any surplus made by the LLP will be available for distribution back to ECC on completion of the sale.

3.16 Below is an indicative timeline for the disposal:

Milestone Description	Target Date
Exchange of contracts	April 2023
Construction Completes	January 2024
LLP Complete sale of leasehold to ECC for carer's apartment	February 2024
LLP Complete sale of the development	February 2024

Scheme History

3.17 Since December 2018, the following activity has been undertaken by the Council or, following its formation, by the LLP:

3.17.1 A scheme design has been prepared by the design team appointed by Essex Housing comprising of Saunders Boston Architects and Oxbury Chartered Surveyors with planning advice provided by Strutt and Parker and market advice provided by Savills.

3.17.2 The Site has been cleared, vacant buildings demolished and the Site remediation works have been undertaken to remove ground contamination including asbestos and heavy metals - all commissioned by the LLP.

3.17.3 Essex County Council sought planning permission from Epping Forest District Council to construct 26 units at the Site, with planning secured in March 2022.

3.17.4 ECC transferred the site to the LLP in May 2022 in preparation for the procurement of a construction partner.

3.17.5 In August 2022 LLP awarded a design and build contract to Marfleet and Blyth for the construction of the 26 units. Construction is fully underway with a completion date of January 2024.

3.18 The sale of the units is in accordance with the LLP's Annual Delivery Plan and will see:

- the creation and sale of sixteen general needs units.
- the creation and sale of nine specialist units.
- the creation and sale of a carer's apartment to ECC.

ECC as Member of Essex Housing Development LLP

3.19 Essex Housing Development LLP is 99% owned by Essex County Council with Seax Trading Limited owning the remaining 1%. The LLP is constituted and governed by an LLP Agreement entered into between Essex County Council, Seax Trading Limited and the LLP dated 29 January 2021. This provides that the LLP shall have a Management Board which shall carry on and conduct the LLP's day-to-day business and that a range of reserved matters are reserved

solely to the Council. Where the LLP seeks to enter into arrangements over £2,000,000, the LLP requires the Council's approval.

- 3.20 A board paper was approved in March 2023 by the Essex Housing Development LLP Board which endorsed the sale to CHP.

4 Links to our Strategic Ambitions

- 4.1 This report links to the following aims in the Essex Vision

- Develop our County sustainably

- 4.2 Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030:

- Promote the use of low carbon heating systems in the delivery of housing in Essex.

- 4.3 This report also links to the following strategic priorities in the Organisational Strategy 'Everyone's Essex':

- **A strong, inclusive and sustainable economy**
 - **Infrastructure:** we will deliver and maintain high quality infrastructure to improve opportunities for people living in Essex as well as supporting a growing economy and the delivery of new homes and communities by investing in the region of £1bn by the end of this Council.
 - **Future growth and investment:** we will help grow existing businesses and the economic sectors of the future in Essex, including the arts, and secure high levels of new investment by working with partners to promote the County, by creating the conditions for growth and by maximising the impact of public sector spend within the county.
- **A high-quality environment**
 - **Net zero:** we will work across the Council and the County to hit our net zero targets, by ensuring that the Council significantly reduces its carbon footprint whilst also supporting an acceleration in the progress towards sustainable housing and energy, and active and alternative forms of travel across the county.
 - **Transport and built environment:** we will deliver a step change in sustainable travel across the county, by growing passenger transport and active travel and will ensure we support the move towards net zero, climate resilient developments including our new garden communities, by delivering sustainable and healthy neighbourhoods for the future.

5 Options

- 5.1 Options to proceed with development and to sell the units created were considered in the previous cabinet report in May 2022 (**FP/330/03/22**) when ECC agreed to transfer the land to the LLP for the development of the site. The options presented below provide an opportunity to pursue a single freehold sale (option one) or pursue the previously agreed position (option two)

Disposal

- 5.2 Option One - Dispose of the freehold for the site as a whole and the leasehold for the carers flat to ECC. **(recommended option)**. The financial benefits are outlined in the Confidential Appendix.
- 5.3 Option Two - Dispose of the freehold only for the nine specialist units for adults with learning disabilities to a Registered Provider and the carers unit to ECC and dispose the open market units through the traditional approach of open market sale to individual purchasers. This is not recommended as it may not secure the financial benefits highlighted in the Confidential Appendix, although benefits may be higher.

6 Issues for consideration

6.1 Financial implications

- 6.1.1 By agreeing a sale with one purchaser for the 26 units (private and learning disability) this would mean that marketing and sales costs are reduced. This single contract will result in a guaranteed sales receipt at the agreed deposit date and at practical completion of the scheme. This reduces borrowing costs and results in the level of capital receipt being known at an early stage rather than relying on individual sales. This also has the benefit of the scheme being protected from any future fall in house prices. This reduction in borrowing will have an impact on the margin on lending received by ECC from EHDLLP.
- 6.1.2 The supporting numbers and further information are provided in the Confidential Appendix.

6.2 Legal implications

- 6.2.1 Although the LLP is independent of the Council, the constitution of the LLP states that ECC's consent is required where disposals have a value of more than £2m. The Council's consent is therefore required.
- 6.2.2 Whilst section 123 of the Local Government Act 1972 would require us to demonstrate that a disposal by ECC had to be for the best value reasonably obtainable which would ordinarily include some property advice, section 123 does not apply to the LLP, but the Council has as the beneficial owner of the LLP still seek some assurance that the LLP is taking a sensible course of action

and an external valuer has confirmed that this is the best consideration reasonably obtainable in the circumstances.

7 Equality and Diversity Considerations

- 7.1 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.
- 7.2 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).
- 7.3 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.

8 List of Appendices

- 8.1 Equality Impact Assessment
- 8.2 Confidential Appendix
- 8.3 Plan showing land

9 List of Background papers

None