

**Wiltshire Council**

**Cabinet Capital Assets Committee**

**19 March 2013**

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**Subject: Affordable Housing Development Proposal**

**Cabinet member: Councillor John Thomson – Adult Care & Housing**

**Key Decision: Yes**

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**Executive Summary**

On 24<sup>th</sup> May 2012, Cabinet Capital Assets Committee agreed to;

1. Approve the allocation in principle of sufficient Council owned sites to enable the delivery of 108 new affordable homes through the Housing Private Finance Initiative (PFI) project phase 2, with a minimum of 48 units delivered on Council owned land as agreed in the Final Business Case, subject to planning permission.

2. Agree that all Council owned sites in the project will be provided for nil consideration.

Three sites were identified to progress through planning to provide sufficient land to deliver a minimum of 48 units through the Housing PFI project phase 2 including Margaret Stancomb School site, Trowbridge.

It has recently been agreed that Housing PFI phase 2 will no longer proceed. However, the opportunity to use the identified sites to deliver affordable housing remains.

Two of the identified sites will not be vacated until Spring 2014. The Margaret Stancomb School site is currently vacant and ready to progress.

The original expectation was that financial close for PFI phase 2 would be achieved by December 2013 with the first starts on the Margaret Stancomb School site shortly afterwards and the first completions achieved towards the end of 2014.

It is proposed that, to continue to meet housing need and achieve completions in advance of the original timeframe, the Margaret Stancomb School site is transferred to the Council's Housing PFI partner, Aster Homes, to progress the development of around 22 new affordable homes, with anticipated completions achieved in Spring 2014.

A copy of the site plan is attached at Appendix A.

**Proposal(s)**

To delegate authority to the Service Director for Business Services in consultation with the Cabinet Member for waste, property, the environment and development control services to approve the transfer of the Margaret Stancomb School site to Aster Homes for the delivery of 22 new affordable homes.

**Reason for Proposal**

To ensure the delivery of 22 new affordable homes to meet identified housing need.

**James Cawley****Service Director – Strategy & Commissioning Adult Care & Housing**

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#### **Purpose of Report**

1. The purpose of the report is to seek approval to transfer Margaret Stancomb School site in Trowbridge to Aster Homes to enable the delivery of 22 new affordable homes.

#### **Background**

2. On 24<sup>th</sup> May 2012 a decision was made to progress planning applications for three council owned sites to enable the delivery of a minimum of 48 new affordable homes through the Housing PFI project phase 2. It was also agreed that these sites should be provided for nil consideration.

3. It has been agreed that phase 2 of the Housing PFI project will no longer proceed.

4. Affordable housing need remains high. At September 2012 there were 1,108 households in silver band or above on the waiting list whose first preference is to live in Trowbridge.

5. The council's Housing PFI partner, Aster Homes, is able to deliver 22 new affordable homes on the Margaret Stancomb School site in Trowbridge ahead of the proposed timeframe for delivery within the PFI project.

6. It is estimated that completions could be delivered by Spring 2014.

7. Aster have access to grant funding from the Homes and Communities Agency (HCA) which could be used to support affordable housing delivery on this site as well as their own reserves.

8. The homes will be built to the HCA's Design & Quality Standards which includes meeting Code for Sustainable Homes Code 3.

## **Main Considerations for the Council**

### **Housing need**

9. Margaret Stancomb school site is currently vacant and has the capacity to deliver 22 new affordable homes to meet housing need in Trowbridge.
10. As detailed in paragraph 4, at September 2012, there were 1,108 households on the housing register in silver band or above whose first preference is to live in Trowbridge.

### **Capital Receipt**

11. It was agreed in May 2012 to dispose of sufficient sites at nil consideration to enable delivery of 48 new affordable homes through PFI with an estimated capital value of £2m. The estimated capital value for this site is £0.5m and the site will deliver 22 new affordable homes.

### **Planning**

12. The site consists of the existing school building and site including playground and some ancillary buildings.
13. It is proposed to transfer the whole site to Aster Group to develop both the existing school building and the remainder of the site to enable the delivery of 22 new affordable homes.
14. Aster are exploring options for the school building including open market housing, affordable housing and community use.
15. Any surplus generated as a result of the development of the school building will be invested in the delivery of affordable housing.
16. The delivery of new homes on this site will be subject to planning and consultation with the local community.

### **Environmental and climate change considerations**

17. Contractors are expected to reduce their impact on the environment through the construction phase including recycling any waste generated as a result of the development. In addition, the homes will be built to the HCA's Design & Quality Standards which include meeting Code for sustainable homes level 3 thereby minimising the impact on the environment.

### **Equalities Impact of the Proposal**

18. The provision of new affordable homes enables those unable to meet their housing needs in the open market to access good quality housing.

19. The new homes will be allocated in accordance with the council's allocations policy. It is proposed that the council will receive nominations to 100% of the new homes on first let and 75% thereafter.

## **Risk Assessment**

### **Risks that may arise if the proposed decision and related work is not taken**

20. Insufficient new affordable homes are delivered to meet housing need resulting in increased homelessness and households unable to live where they work or near carers or dependants. This has a knock on effect on health, employment, care provision and well being.
21. Funding currently available through the Homes and Communities Agency's Affordable Housing Programme may not be available in the future to invest in affordable housing delivery. Delivery of this scheme now will take advantage of that funding.
22. The site may remain vacant for a prolonged period.

### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

	<b>Risk</b>	<b>Action to mitigate the risk</b>
23.	Abnormal costs identified on the site	Site surveys will be carried out to determine those costs and assess the impact prior to any further expenditure
24.	Unable to achieve planning permission	Pre-application consultation will be carried out prior to submission of the application
25.	Provider unable to deliver viable scheme	A legal interest in the land will not be granted until a viable scheme is deliverable

## **Financial Implications**

26. Margaret Stancomb School site was factored into the capital programme with an expected capital receipt of £0.5m. When the site was allocated to the phase 2 PFI scheme this receipt was taken out of the capital programme. Selecting option 1 would therefore represent an unexpected capital receipt which would have an ongoing revenue benefit of around £0.050m per annum. The other options 2 – 4 where land is provided at nil consideration would have no additional financial implications than already assumed.

## **Legal Implications**

27. The direct award of land to Aster at nil consideration has implications in terms of 1) Public Contract Regulations (2006); 2) State Aid; 3) Section 123 – 128 of the Local Government Act 1972; and the Local Government Act 1999 best value duty.

### Public Contract Regulations.

A land transfer with housing development obligations will generally be subject to these regulations and so be subject to an extensive tendering exercise. This would deny the Council the ability to simply award the development project to Aster. However, in this case the financial size of the project (open market land value plus the cost of building the 22 dwellings) is less than the threshold (£4.3 million) above which the regulations apply. Therefore the PCR 2006 do not, in this case, demand that a tender is undertaken. An exemption from the Council's procurement rules may be required.

### State Aid

The grant of land at nil value (or anything of value greater than around £180,000) to an economically active organisation would generally contravene the State Aid regulations. However, recent changes in those regulations have very much lessened their application to project the aim of which is to provide social housing. As these changes are recent there has been little testing of them by way of cases or clarification by way of issued guidance and so there is a chance that another housing organisation could still make a state aid claim. However the risk of this is low.

### Best Value.

Under the Local Government Act 1972 local authorities have a duty to obtain the best consideration reasonably obtainable when disposing of land, unless the Secretary of State consents to the disposal. Pursuant to the General Disposal Consent 2003, it is not necessary to seek specific consent for any disposal of land which the Authority considers will help it to secure the promotion or improvement of the economic social or well-being of its area where the difference between the unrestricted value of the interest to be disposed of and the consideration accepted is two million pounds or less. In order for the Council to avail itself of this general consent, it is necessary to be able to show that the benefits assessed match or exceed the undervalue by reference to professional valuation advice, the Community Strategy and Council Policy. However in doing this the Authority must remain accountable and transparent and follow and record normal prudent commercial practices. Once having considered the outcome of those practices the Authority is satisfied the disposal is appropriate then it may dispose at an undervalue and in this case for nil consideration.

## **Options Considered**

**28. Option 1: To dispose of the site for best value**

There is an option to dispose of the site to achieve best price. Although this may deliver a capital receipt for the council it would not result in the delivery of 22 new affordable homes to meet need in line with the council's corporate affordable housing targets. This site has been held for affordable housing delivery and has not been assumed to deliver a capital receipt beyond the receipt expected for the school building.

**29. Option 2: To invite offers from a range of providers to deliver an affordable housing scheme on the site**

Aster is a key partner for the council and has been working with the council over several years to deliver affordable housing through the PFI project. The delivery of this site with Aster, with whom we already have a close working relationship, will enable the units to be delivered more quickly and effectively. Inviting offers from a range of providers will delay the delivery of these homes and there is a risk that it will not result in any enhanced value. Aster also have access to Homes and Communities Agency (HCA) funding and their own reserves to support delivery on the site without any further subsidy requirement from the council.

**30. Option 3: To invite offers from a range of providers to deliver a mixed tenure affordable housing scheme on the site.**

An option to offer the site to providers to consider a mix of sale and affordable units may deliver a capital receipt for the land but would result in less affordable housing. In addition, the process would delay the development of the site.

**31. Option 4: To explore the opportunity to deliver council housing on the site.**

It may be an option for the council to consider the use of this site for the development of new council housing. However, the delivery mechanisms for this are still being explored. Aster will be able to commence pre-application work on the site immediately following approval and will be able to deliver completed units within a quicker timeframe.

**Conclusions**

32. The best option to deliver affordable homes on this site in the most effective and efficient way is to dispose of the site to Aster Homes for nil consideration.

**James Cawley**  
**Service Director – Strategy & Commissioning – Adult Care & Housing**

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Report Author:

Janet O'Brien  
Head of New Housing

Tel. 01249 706550  
Email. Janet.o'brien@wiltshire.gov.uk

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## **Background Papers**

PFI Final Business Case

<http://www.wiltshire.gov.uk/council/corporateprocurementunit/housingprivatefinanceinitiative.htm>

CCAC Report 24.5.12 -

<http://cms.wiltshire.gov.uk/ieListDocuments.aspx?CId=980&MId=6443&Ver=4>

## **Appendices**

Appendix A – Site plan

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