

ANGUS COUNCIL

POLICY AND RESOURCES COMMITTEE – 28 JANUARY 2020

THE GABLES CARE HOME, FORFAR

REPORT BY IAN COCHRANE, DIRECTOR OF INFRASTRUCTURE

ABSTRACT

This report updates members of plans for the replacement of the Gables Care Home in Forfar for adults with a learning disability and seeks approval to transfer the land to the preferred registered social landlord, Caledonia Housing Association.

1. RECOMMENDATION(S)

It is recommended that the Committee approves that the transfer of land (see Appendix 1 Site Plan) to the appointed registered social landlord takes place earlier than originally planned as detailed in this report and upon terms and conditions to be agreed by the Director of Infrastructure following consultation with the Director of Legal & Democratic Services.

2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/COPORATE PLAN/ANGUS HEALTH AND SOCIAL CARE PARTNERSHIP STRATEGIC PLAN

This report contributes to the following local outcomes contained within the Angus Local Outcomes Improvement Plan and Locality Plans 2017 - 2030:

- 2. A skilled and adaptable workforce.
- 6. Improved physical, mental and emotional health and well-being.
- 7. Safe, secure, vibrant and sustainable communities.
- 9. An enhanced, protected and enjoyed natural and built environment.

This report also contributes to the following strategic priorities within the Angus Health and Social Care Partnership Strategic Plan 2016 – 2019:

- Priority 2: Supporting Care Needs at Home.
- Priority 4: Improving Integrated Care Pathways for Priorities in Care.

3. BACKGROUND

3.1 In 2018, Committee approved plans for the replacement of the Gables Care Home in Forfar with a new supported housing development to be taken forward by Caledonia Housing Association (CHA) (Report 35/18 refers).

3.2 Since then the Council, Angus Health and Social Care Partnership and CHA have been working together to agree plans for the new housing. In May 2019 planning approval was granted, subject to conditions, for the development of 20 units plus office/communal space. This followed detailed investigations into flood risks.

3.3 The development will be taken forward in two phases. Phase 1 will deliver eleven 1-bed flats, one 2-bed house and office/communal space. Phase 2 will comprise eight 1-2 bed mainstream affordable homes. Demolition of the existing care home will also take place during Phase 2.

4. CURRENT POSITION

4.1 As per Report 35/18 CHA were appointed as the preferred registered social landlord (RSL) to take forward this development. At the time it was envisaged that the Council would enter into

a lease with CHA, providing them with access to the site to deliver Phase 1 of the development. A Development Agreement would be entered between the parties alongside the lease to manage and enable development of the supported and affordable housing within the boundary of the existing site. Following completion of the supported housing units, ownership of the land would be transferred to CHA. This arrangement ensured the land remained in Council control until the supported units were successfully delivered. Advice sought from Scottish Government at the time indicated the lease agreement would be satisfactory in terms of the Affordable Housing Supply Programme grant award.

- 4.2 Having engaged with the Scottish Government, CHA has subsequently informed the Council that it is unable to comply with the Scottish Government grant conditions unless the Council transfers ownership of the land to them. Ownership of the land by CHA is therefore essential to enable CHA to get approval for grant funding from Scottish Government before initiating the project and thereafter access the funding. CHA is financially unable to proceed with the development unless the application for grant funding has been approved.

5. PROPOSALS

- 5.1 It is proposed that ownership of the land required for development of Phase 1 (see Appendix 1 Site Plan) is transferred from the Council to CHA in advance of the construction start, estimated to be late February 2020. The Council will also grant CHA temporary access rights to the phase 1 site over the area shown hatched on the Site Plan. This transfer of the land will enable CHA to apply for grant funding and confirm acceptance of the Scottish Government grant conditions. The remainder of the site, and the capital contribution mentioned in Report 35/18, will be transferred to CHA following completion of Phase 1 and prior to the commencement of Phase 2 as per the previous approval. The terms for development of the land will be subject to a Development Agreement as previously agreed.

- 5.2 Transferring ownership of the land to CHA prior to development, rather than after completion of the development carries additional risk for the Council. Colleagues in legal have been consulted, and have confirmed that the following additional legal mechanisms will be required alongside the Development Agreement, namely: (a) Standard Security by CHA in favour of the Council to secure the Development Agreement obligations, (b) a burden contained in the Disposition in favour of CHA restricting their use (to cover the construction, and (c) a buy back option of the Phase 1 site in favour of the Council included in the Development Agreement. It is noted that the above mechanisms for recovering the land in the event of a breach are not as strong as they were under the lease proposal. The original lease proposal would allow us to enforce the lease conditions relating to the development more easily, and terminate the lease in the event of a serious breach, taking back full control of the land. In the current transfer proposal, we lose a degree of control and are reliant on enforcing the contractual provisions contained within the development agreement and recovering the damages secured by the standard security, legally a more complicated, time consuming and costly route, with, on the face of it, a more limited prospect of success. These risks have to be balanced against the fact we are contracting with an RSL, and addressing their ability to secure funding.

- 5.3 The close proximity of the Phase 1 development to the existing Care Home, leaves a low risk that should the development not proceed as planned, the facility would be adversely affected. This would not affect the future operation of the care home but significantly reduces the outdoor space and amenity of the area. This risk is considered acceptable in the context that the Care Home is not fit for purpose and therefore in the event the proposed development does not proceed an alternative would require to be sought.

6. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report as a result of the earlier transfer of landownership. The financial implications of the overall project are noted in Report 35/18 which was and remains an exempt report.

7. OTHER IMPLICATIONS

An Equalities Impact Assessment has previously been completed in relation to the project. The equalities implications have not changed as a result of the recommended change to the structuring of the proposal. As mentioned in 5.2 transferring ownership to CHA prior to development carries additional risk. To reduce this additional legal mechanisms will be put in

place alongside the Development Agreement but these are not as strong as under the lease proposal.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report is:

- Report No. 127/17: The Gables Care Home, Forfar Policy & Resources Committee 14 March 2017
- Report No. 35/18: The Gables Care Home, Forfar – Policy & Resources Committee 30 January 2018

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Appendix 1 Site Plan