

PART II

The report on the following item is **not for publication** by virtue of exempt information of the description contained in Paragraph 6 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 9.10.4 of the Constitution](#) also refers.

Extra Care Housing Development, Hungerford	
Title of Report:	<i>(Paragraph 6 – information relating to proposed action to be taken by the Local Authority)</i>
Report to be considered by:	Executive
Date of Meeting:	22 July 2010
Forward Plan Ref:	EX2042

Purpose of Report:

To seek agreement to establish a pre planning cost risk sharing arrangement with Sovereign South & West (SSW), in the context of partnership working to deliver a key Supported Living Development project, as part of the Putting People First Programme of work.

Recommended Action:

The Executive resolves

1. to support and implement the establishment of pre-planning risk sharing agreement as set out in the report.
2. to delegate to Head of Housing and Performance in consultation with the portfolio holder for Adult Social Care, Head of Legal and Electoral Services and Head of Finance, authority to enter into the Risk Sharing Agreement with SSW

Reason for decision to be taken:

The requirement for the development of extra care housing, to offer more appropriate care options for older people is a key strategic aim for the Council and one of the main methods of delivering savings for Adult Social Care identified in the Medium Term Financial Strategy. The initiation of these developments requires considerable upfront investment and commitment from our partners; achieving planning consent can result in costs in excess of £500k. Whilst the Council is committed to supporting these developments, meeting the demands of the planning system will inevitably require substantial investment to

ensure plans are acceptable and even then there is the potential that consent will not be achieved. The current economic climate means that concerns around these risks have heightened and our partners/RSLs require stronger assurances of the Councils commitment to working with them to meet identified priorities. It is proposed therefore that consent is given to the establishment of a risk sharing agreement, which would be negotiated to minimise the risk of its being enacted.

Statutory:
Other:

☐

Non-Statutory:

☒

Other options considered: None

Key background documentation:

Older Peoples Commissioning Strategy
Putting People First - Adult Social Care Strategy
'Single Conversation' - Homes and Communities Agency

The proposals will also help achieve the following Council Plan Themes:

- ☒ **CPT3 - Affordable Housing**
- ☒ **CPT7 - Safer and Stronger Communities**
- ☒ **CPT10 - Promoting Independence**
- ☒ **CPT11 - Protecting Vulnerable People**
- ☒ **CPT13 - Value for Money**

The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:

Delivery of 46 units of affordable housing, creating more appropriate support and care opportunities for older people to enable them to remain living independently in the community in a secure and safe environment. Enable the Council to commission care services that offer greater value for money than alternative residential care services.

Portfolio Member Details

Name & Telephone No.:	Councillor Joe Mooney - Tel (0118) 9412649
E-mail Address:	jmooney@westberks.gov.uk
Date Portfolio Member agreed report:	15 March 2010

Contact Officer Details

Name:	Tandra Forster
Job Title:	Contracts & Commissioning Manager
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Implications

Policy:

Financial:

The proposed pre planning cost risk sharing arrangement could commit the Council to a maximum of £175k in abortive costs and this would have to be funded through the Council's Risk Fund set aside for this purpose. However, the report details a range of controls that can be put in place to help mitigate against the risk of the project not proceeding and avoid having to incur these abortive costs..

Personnel:

Legal/Procurement:

Section 2.4 of the Report identifies the risk and controls that need to be in place for such an agreement. Any agreement will require clear instructions on what level of controls are considered acceptable together with a maximum limit for each head of expenditure needs to be defined.

Property:

Risk Management:

See section 3

Equalities Impact Assessment:

This project supports age equality and non-agreement could jeopardise this if it is not able to go ahead.
For advice please contact Principal Policy Officer (Equalities) on Ext. 2441.

Corporate Board's View:

to be completed after Corporate Board meeting

Is this item subject to call-in?	Yes: <input checked="" type="checkbox"/>	No: <input type="checkbox"/>
<p>If not subject to call-in please put a cross in the appropriate box:</p> <p>The item is due to be referred to Council for final approval <input type="checkbox"/></p> <p>Delays in implementation could have serious financial implications for the Council <input type="checkbox"/></p> <p>Delays in implementation could compromise the Council's position <input type="checkbox"/></p> <p>Considered or reviewed by Overview & Scrutiny Commission or associated Task Groups within preceding six months <input type="checkbox"/></p> <p>Item is Urgent Key Decision <input type="checkbox"/></p>		

Executive Summary

1. Introduction

- 1.1 The requirement for the development of extra care housing to offer more appropriate care options for older people, has been identified in both the Council's Older Peoples Commissioning Strategy and the Putting People First (PPF) Strategy for Adult Social Care (ASC).
- 1.2 The provision of extra care sheltered housing, as a real alternative to more costly residential care, is one of the key strands of work that ASC is undertaking to support the delivery of a significant level of savings that have been identified in the Medium Term Financial Strategy (MTFS).
- 1.3 Within the governance structure of PPF, the Supported Living Development Programme (SLDP) has the lead responsibility for the delivery of the associated projects, of which one is an extra care sheltered housing scheme in the west of the district.
- 1.4 The Priory Court Project in Hungerford is a 46 unit extra care housing development for people aged 55 plus, which will be developed by Sovereign South & West (SS&W) on previously developed land within their ownership. The project will also include the development of a 29 unit sheltered scheme for older people with support needs.
- 1.5 Given that the development project has been prompted in direct response to identified council priorities, SS&W have indicated that their Board have concerns that achievement of the overall planning consent could lead to costs in excess of £500k.
- 1.6 In light of these concerns, Sovereign has asked if the Council will enter into a Risk Sharing Agreement to enable the project to proceed. This means is that the Council would accept a proportionally capped share of the pre-planning costs in the event that the project fails to achieve planning consent.
- 1.7 Advice has been sought from legal and finance who have referred to external auditors KPMG, to establish if the local authority can enter into this type of agreement. It has been confirmed that this is possible, but that any agreement would need to be sanctioned by Executive. This sanction would have to be on the basis of a balanced view of the risks in proceeding with the agreement, against the benefits that will be achieved for the district through the delivery of the project.

2. Conclusion

- 2.1 Development of extra care housing is a clear Council priority as set out in the Older Peoples Commissioning Strategy and the Putting People First Strategy. The Priory Project will offer more choice and control in the way older people receive care, creating better outcomes and improved well-being. It will also support the delivery of savings identified as part of the Medium Term Financial Strategy essential to meet the rising demand for services for older persons across the district.

- 2.2 It is recognised that by entering into a legally binding agreement of this nature that it is new ground for the Council. The request to do this reflects the pressures that have been created by the current economic climate and the consequential anxieties that have arisen for partners/RSLs in bringing forward new projects. It also raises a broader issue in respect of large capital building projects developed to meet the Council's priorities and how the Council manages risk in these projects, despite being a relatively small cash limited authority.
- 2.3 With the balance of risk, control and benefit satisfied, it is recommended that Members agree to the development of a risk sharing agreement between the Council and SS&W and that the agreement is negotiated through WBC legal team, to minimise the risk of it having to be enacted. The work to be carried out with a clear mandate to enable the Council to bring forward an extra care sheltered housing development in partnership with SS&W in the west of the district.
- 2.4 It is also recommended that following the approval of the council to enter into the agreement, that the final approval of the detailed agreement is delegated to the Portfolio Member for Adult Social Care, to be taken as an individual decision.

Executive Report

1. Introduction

- 1.1 The requirement for the development of extra care housing, to offer more appropriate care options for older people, has been identified in both the Council's Older Peoples Commissioning Strategy and the Putting People First Strategy for Adult Social Care.
- 1.2 The Priory Court project, an extra care housing scheme, forms part of a range of projects within the Supported Living Development Programme (SLDP), the aim of which is to promote choice and independence for vulnerable people in West Berkshire.
- 1.3 The SLDP is a key part of Putting People First which is the Council's overarching strategy for transforming adult social care in West Berkshire.
- 1.4 The Priory Court project in Hungerford is a 46 unit extra care housing development for people aged 55 plus, which will be developed by Sovereign South & West (SS&W) on previously developed land within their ownership. The project will also include the development of a 29 unit sheltered scheme for older people with support needs.
- 1.5 SS&W have estimated that the extra care housing scheme will cost £8.9m to develop of which they will contribute £6.6m and anticipate that the Homes and Communities Agency (HCA) will make a grant allocation of £1.3m. It is proposed that the Council contributes £1m of pre-allocated S106 funds for construction costs and £500k capital for fixtures and fittings that are specifically required for an extra care sheltered scheme, for example kitchen and laundry provision, the build is forecast to complete by Autumn 2012.
- 1.6 Given that the development project has been prompted in direct response to identified council priorities, SS&W have indicated that their Board have concerns that achievement of the overall planning consent could lead to costs in excess of £500k.
- 1.7 In light of these concerns, Sovereign has asked if the Council will enter into a Risk Sharing Agreement to enable the project to proceed. This means is that the Council would accept a proportionally capped share of the pre-planning costs in the event that the project fails to achieve planning consent.

2. Risks and benefits

- 2.1 Advice has been sought from legal and finance who have referred to the external auditors KPMG, to establish if the local authority can enter into this type of agreement. It has been confirmed that this is possible, but that any agreement would need to be sanctioned by Executive. This sanction would have to be on the basis of a balanced view of the risks in proceeding with the agreement, against the benefits that will be achieved for the district through the delivery of the project.
- 2.2 Pre-construction costs attached to the project have been estimated at £500k. For the purposes of the agreement it is proposed that a proportionate amount of 50% of the total pre-construction costs would be considered, equating to a maximum

amount of £250k. Of the £250k it is proposed that the council would be liable for a maximum of 70% of the cost equal to £175K and in effect 35% of the total pre-construction costs.

2.3 In consultation with KPMG the following risks have been identified:

- (1) Potential for the agreement to compromise the independence of the planning process
- (2) Risk that the agreed triggers for payment are not clearly defined and that the Council is as a consequence compelled to enact payment for a failure that is either inappropriate or should have been controlled
- (3) Financial risk to the Council arising from the enactment of the agreement

2.4 The table below shows the risks identified and the controls that will be put in place to mitigate them:

Risks	Controls
Potential for the agreement to compromise the independence of the planning process	<p>Ensure that detailed pre-planning application meetings are held and that all parties are represented</p> <p>SLDP Project Team to work with planning to properly understand and interpret advice provided through the pre-planning stage and to ensure that this is factored into the final planning application</p> <p>Robust governance arrangements are put in place to ensure that the joint project management of the development project does not offer the opportunity for compromise of the council decision making process, on the basis of the financial risk arising from a refusal of the planning application</p>
Risk that the agreed triggers for payment are not clearly defined and the council is compelled as a consequence to enact payment for a failure that is either inappropriate or should have been controlled	<p>Negotiation of the agreement led by the legal representative of the Council and in consultation with all relevant council services, to ensure the triggers and controls are agreed and robust.</p> <p>Triggers and controls put in place safeguard the project from aborting due to factors beyond WBC control e.g. third party income not appearing, poor practice leading to planning application being refused</p> <p>Clearly defined process in place to allow for arbitration and dispute resolution to ensure that any decision to enact the agreement is taken in a fully informed and transparent manner</p>
Financial risk to the Council arising from the enactment of	Cap on the maximum financial liability for the Council should the agreement be enacted.

Risks	Controls
the agreement	<p>Robust monitoring and use of the defined controls within the agreement</p> <p>An acceptable level of risk and a maximum limit for each head of expenditure to be clearly defined as part of the negotiated agreement</p>

- 2.5 Set alongside consideration of risk Members must take into account in their decision the benefits that this development project will bring, the role it will play in the modernisation of adult social care and the impact that failure to deliver the service will have on the Council's ability to achieve its longer term MTFS aspirations.
- 2.6 Benefits that have been identified as part of the SLDP programme governance structure are set out in the table below:

Financial	<p>The development of this project will contribute to the delivery of a savings target in excess of £300k in the MTFS 2012/13.</p> <p>It will offer more choice in the care market and consequently increase value for money.</p>
Affordable Housing	The development will contribute to the Council's target for the delivery of affordable housing
Choice	<p>This project will widen the opportunity for people to access extra care services, ensuring a balance of provision across the district, enabling people to remain living close to their families</p> <p>Promote better longer term outcomes for older people as it will encourage independence and greater control in line with the personalisation</p>
Vibrant Communities	The project will encourage close links with local businesses to offer tenants a wide range of services e.g. hair dressing, small convenience store.
Employment	Create employment opportunities through the tender of a care contract.

3. Conclusion

- 3.1 The provision of Extra Care Sheltered Housing, as a real alternative to more costly residential care, is one of the key strands of work that ASC is undertaking to support the delivery of a significant level of savings that have been identified in the Medium Term Financial Strategy. Extra care housing is a clear Council priority and is set out in the PPF Strategy and the Older Persons Commissioning Strategy.

- 3.2 The savings plan for ASC through to 2012 and beyond is dependent on the expansion of capacity in the care and support sector, to provide for the growth in the numbers and expectation of the older people living in the district, and this project will be key to the achievement of this.
- 3.3 The initiation of developments of this scale and scope, require considerable up-front investment and commitment from our partners. They also require recognition of the role the Council must play in ensuring that plans are put in place to secure the delivery of identified priorities and development projects of this nature are an essential part of this.
- 3.4 Whilst the Council is committed to supporting these developments, meeting the requirements of the planning system will inevitably require substantial investment to ensure plans are acceptable and even then there is the potential that consent will not be achieved. The current economic climate means that concerns around these risks have heightened and our partners/RSLs require stronger assurances of the Councils commitment to working with them to meet identified priorities. .
- 3.5 With the balance of risk, control and benefit satisfied, it is recommended that Members agree to the development of a risk sharing agreement between the Council and SS&W and that the agreement is negotiated through WBC legal team, to minimise the risk of it having to be enacted. The work to be carried out with a clear mandate to enable the Council to bring forward an extra care sheltered housing development in partnership with SS&W in the west of the district.
- 3.6 It is also recommended that following the approval of the council to enter into the agreement, that the final approval of the detailed agreement is delegated to the Portfolio Member for Adult Social Care, to be taken as an individual decision.

Appendices

There are no appendices to this report.

Consultees

Local Stakeholders: Not consulted

Officers Consulted: June Graves
Mel Brain
David Holling
Shiraz Sheikh
Leigh Hogan
Andy Walker
Gary Lugg
Gary Rayner

Trade Union: Not consulted