

8 November 2023		ITEM: 14 Decision: 110679
Cabinet		
Elizabeth Gardens Procurement for Care and Support		
Wards and communities affected: All	Key Decision: Key	
Report of: Councillor George Coxshall, Cabinet Member for Health, Adults Social Care, Community and Public Protection		
Accountable Assistant Director: Les Billingham, Assistant Director – Adult Social Care and Community Development		
Accountable Director: Ian Wake, Corporate Director for Adults, Housing and Health		
<p>This report is Public with exempt appendices.</p> <p>Appendix 1 and 2 contain exempt information which falls within schedule 12A of the Local Government Act 1972 - <i>Information relating to the financial or business affairs of any particular person (including the authority holding that information)</i>. In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>		
Date of notice given of exempt report: 31 st October 2023		

Executive Summary

The term 'Extra Care Housing' is used to describe a type of housing, care and support that falls somewhere between traditional sheltered housing and residential care. Extra Care Housing offers a higher level of support than sheltered housing with care workers available on site up to 24 hours a day for those who need them. This means Extra Care Housing is often suitable for people with higher care needs. Elizabeth Gardens is a development of 65 Extra Care flats; it is managed by Anchor Housing Association and is situated in Long Lane, Grays having properties both for rent and for sale. The scheme is designed to provide Extra Care to meet the needs of older people and, exceptionally, younger people with higher levels of need. The contract for the Care and Support services is coming to an end (31st August 2024) and requires re-tendering. This report outlines the details of the tender process and the award of the new contract.

Government Intervention & Section 114

In July 2022, the Council was made aware of concerns around the valuation of specific investments. A review process commenced, and the initial findings highlighted significant concern with three investments and the position was shared informally with the Department of Levelling Up, Housing and Communities (DLUHC). On the 2 September 2022 DLUHC announced directions to implement an intervention package at the Council.

The Secretary of State exercised his powers under section 15(11) of the Local Government Act 1999 to give a Direction without complying with the requirement at section 15(9) to give Thurrock an opportunity to make representations about the Directions, as he considered the failures of the Council's compliance with its Best Value duty in respect of the functions specified in the Directions sufficiently urgent. This was because of the following:

- the scale of the financial and commercial risks potentially facing the Authority, which were compounded by the Authority's approach to financial management and the seriousness of the allegations that were made by third parties about the processes applied to the operation of the Authority's commercial strategy, and;
- the failure of the Authority to provide assurance to Ministers and the Department on the adequacy of the actions that they were taking to address the issues, taking account of the scale and pace of the response required.

The Secretary of State nominated Essex County Council to the role of Commissioner.

On 19 December 2022, the Council's Acting Director of Finance and Section 151 Officer issued a report under Section 114 of the Local Government Finance Act 1988. This advises Councillors that the Council faces 'a financial situation of an extremely serious nature.'

Since that period the Council has continued to operate under the s114 Notice and is working alongside Commissioners to tighten its financial management procedures.

Commissioner Commentary

Commissioners requested further information to be provided as to how the following can be demonstrated.

- Inflation
- Procurement Strategy/reasoning
- Best Value

Rationale has been provided and approved by Commissioners, however, this has been included as an appendix to this report so that the commercially sensitive information provided can be exempt from publication.

1. Recommendation(s)

1.1 That Cabinet agrees to proceed with the retender of the Care and Support services at Elizabeth Gardens.

1.2 That the power to award the contract be delegated to the Executive Director for Adults, Housing and Health in consultation with the Portfolio Holder for Health, Adult's Health, Community and Public Protection. This will allow a sufficient window of time between contract award and contract commencement, during which the necessary contract handover actions can take place to ensure a smooth and effective transition to the new service.

2. Introduction and Background

2.1 A procurement exercise is required to tender for the award of a new contract for the provision of a high quality care and support service which provides value for money and is available to meet the needs of the resident service users.

2.2 Extra Care supports people towards an inclusive fulfilling future by providing independence dignity and security. This will:

- support individuals to stay in their own home for as long as possible.
- increase the choice of housing available.
- provide an alternative choice to residential care.
- help individuals to remain more independent.
- give individuals all the usual rights of a tenant and provide the care and support required.
- provide significant personal support that will enable people stay in their own home.

2.3 To qualify for Extra Care Housing through Thurrock Council you must be:

- a Thurrock Council tenant or eligible to join the Housing waiting list.
- over 55 years of age for Elizabeth Gardens, with care needs or receive higher rate Personal Independent Payment (PIP)
- live in Thurrock or have the need to live in Thurrock – for example, to receive support from relatives.
- receive or need at least seven hours of care per week.

Elizabeth Gardens also provides the opportunity for residents to buy a flat and access the support for a charge which is subject to a financial assessment.

2.4 Elizabeth Gardens also offers to meet a wide range of needs including physical disability and sensory impairment as well as providing a safe and secure environment for people with dementia and mental health needs. It also offers end of life care, so that the accommodation provides a home for life and there should be no need to move to a care home if needs increase. In addition, unnecessary hospital care can be avoided, both with the associated higher costs.

2.5 The provision of care and support Services at Elizabeth Gardens has two parts, the first is the core service provided through a block contract. The core element of the contract provides 24 hour onsite support, housing support and advice, personal care and support with communal activities. The proposal is

that this will be tendered for a five year contract (with an option to extend for a further two years). The recommendation is that providers tendering for the contract propose the value for the core service over the life of the contract. The spend for the core service in the 2022/3 financial year was £314,116, if at the same amount for five years this will be £1,570,580. (seven years would be £2,198,812.).

We do however expect future contract costs to be impacted by inflation.

- 2.6 The second part of the contract is commissioned on a spot basis to provide additional personal care and support to meet increased assessed need. This is through the current declared hourly rate of £18.89. In the 2022/3 financial year spend was £135,013. This will be a variable amount dependant on the level of needs of the residents. For a five year contract this will be approximately £675,065. (seven years would be £945,091). We do however expect costs to be impacted on by any uplifts to our declared rate.

Residents are able to purchase additional care from other registered home care providers if they prefer ensuring that they have a choice of provider. In real terms most residents purchase the additional support from the provider who delivers the block contract which ensures consistency.

Table 1 below illustrates the current cost of the block and the spot contracts; these amounts are likely to be impacted upon by inflation and therefore can only be an estimated financial commitment for a 5 and 7 year contract:

Table 1

2022/2023 Block Contract Per Annum	2022/23 Spot Contract (variable)
£314,116	£135,013
Total estimated cost for 5 (and 7) year Block contract	Total estimated cost on for a 5 (and 7) year spot contract cost based on 2022/23 expenditure
£1,570,580 (£2,198,812)	£675,065 (945,091)

3. Issues, Options and Analysis of Options

- 3.1. On 1st September 2019 the core contract was awarded to the current provider, Care Support Ltd (formerly Carewatch East London) to provide care and support services at Elizabeth Gardens.

- 3.2. A core block contract will be re-procured for a period of up to seven years. The spot purchase element of the contract will be included in the procurement at a current declared rate of £18.89 an hour to offer value for money and consistency of approach. However, it will be clear in the tender process that residents will also have a choice to purchase any additional care from another registered provider or through direct payments if they wish too.
- 3.3 A competitive process based on price and quality as opposed to a declared price is recommended. This means that those tendering for the contract will be asked to identify the value of the contract (bidding on an hourly rate for the core element). The reason for this is the ability to attract a greater number of providers. The weighting for price and quality will be 40% and 60% respectively.
- 3.4 The alternative is to set a contract price, but the risk is that the number of providers bidding is significantly restricted. Given the current market, the probability of the risk occurring is high.
- 3.5 Governance and Procurement Timetable:

Task	When
Senior Leadership Team	6 th September 2023
Commissioner Commentary	11 th -15 th September 2023
Cabinet Meeting	8 th November 2023
Task – Procurement activity	When (estimated)
Finalise all tender documents: <ul style="list-style-type: none"> • ITT (including evaluation criteria) • Terms and conditions (Legal) • Specification • TUPE Information • Pricing Schedule 	By January 2024
SQ publication	15 th January 2024
SQ closing date	16 th Feb 2024
SQ evaluations	19 th Feb - 8 th March 2024
ITT Issued	11 th March 2024
ITT closing date	12 th April 2024
ITT evaluations	15 th April - 10 th May 2024
Notify tender outcome	13 th May 2024
Standstill period	14 th - 23 rd May 2024
Expected Award	24 th May 2024
Handover/TUPE	June – August 2024
Contract Commencement	1 st September 2024

3.6 Tender Evaluation

The Tender Evaluation Panel will be a minimum of two officers consisting of a commissioning lead officer and experienced operational staff. We will also seek a service user with lived experience to be part of the evaluation process.

In addition, Procurement officer oversight will also be provided to ensure due diligence throughout the tender process.

4. Reasons for Recommendation

- 4.1 The contract with the current provider (Care Support), to provide care and support is coming to an end (31st August 2024).
- 4.2 The service provided at Elizabeth Gardens is a statutory provision that supports residents following a Care Act assessment with high levels of need to remain in their own homes rather than accessing residential care or nursing home support it offers a high quality service and giving real value for money.

5. Consultation (including Overview and Scrutiny, if applicable)

- 5.1 Those with lived experience will be sought to be part of the tender evaluation process.

6. Impact on corporate policies, priorities, performance and community impact

- 6.1 The Elizabeth Gardens Care and Support contract impacts on the following Council Priority;

People – a borough where people of all ages are proud to work and play, live and stay.

7. Implications

7.1 Financial

Implications verified by: **Mike Jones**
**Strategic Lead, Corporate Finance –
Resources and Place Delivery**

As per the information contained within Table 1, the budget provision is included within the Adult Social Care external placements budget.

This block contract element is included within the Older Peoples Residential care budget. The spot contract element forms part of the Older Peoples Home Care budget.

The spot element elements of the contract will be subject to price uplifts, in-line with the annual fee setting consultation process. This will be included as part of the price increase growth within the Medium Term Financial Strategy.

7.2 Legal

Implications verified by: **Kevin Molloy**
Team Leader Contracts Team

Following issue by the Council of a s114 notice, the Council must ensure that its resources are not used for non-essential spending. The contract at issue here is essential and the provision of such a statutory duty. In procuring the services outlined, the Council must observe the obligations upon it outlined in national legislation and in its internal procurement rules.

The proposed route above described should satisfy these requirements. Officers should ensure Legal Services are kept fully informed as they progress through the procurement to ensure compliance.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer

Elizabeth Gardens is designed to meet a wide range of needs and residents are highly likely to fit under one or more protected characteristics as defined by the Equalities Act 2010 including disability and age. Providers will be asked about their equality policies as part of the tender process as well as the quality of care that they provide. A service user will be invited to be a part of the evaluation process. Community Equality Impact Assessments will be completed as required throughout this process.

All information regarding Community Equality Impact Assessments can be found here: <https://intranet.thurrock.gov.uk/services/diversity-and-equality/ceia/>

7.4 Other implications (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

N/A

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

N/A

9. **Appendices to the report**

Appendix 1 - Signed Stage 1 Form – Approval to Proceed to tender (exempt)

Appendix 2 – Full Response to Commissioners Commentary (exempt)

Appendix 3 – Response to Commissioners Commentary (public)

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