

PAPER B

EPH Programme Board

Weds 25 June 2014

Summary Position Statement – as of Tuesday 24 June

Introduction

1. The purpose of this report is to provide an overview of what has happened since the last Board on 30 April, and a summary of the key issues requiring discussion and decision by the Board. At relevant points, it signposts Board members to other more detailed items/papers on the agenda.
2. At the last EPH Board on 30 April it was agreed that:
 - a. CYC should re-engage with the two remaining bidders and test out their appetite for the mitigations we are proposing for closing the affordability gap. The bidders will need to demonstrate that they can make the project affordable over the life of the 15 year contract.
 - b. Adult Social Care/the Project Team should work up an alternative 'Plan B'. The option to gradually close our EPHs and purchase all new placements from the private sector was felt to be unpalatable but it was recognised that – even if bidders do re-engage – there is still a considerable risk of the procurement falling over (because of affordability issues, the Burnholme site issues, etc). The Board felt we needed a more viable 'Plan B' to present to Members should the procurement fail for any reason.

Bidder Update

3. Members of the EPH Project Team met with representatives from Bidder 1 on 23 May and with Bidder 2 on 21 May, having sent both bidders advanced notice of the mitigations we wished to discuss with them – the key one being that CYC will reduce the number of places it buys over time (from 162 places to 126 across 3 years), thus increasing the number of beds the provider would be able to charge out to self-funders, at a higher bed rate, bringing in significant additional income that would effectively subsidise the Council's contribution.
4. CYC issued a clarification to both bidders on 5 June which (a) set out a revised timeline for (and approach to) the dialogue process – leading to contract award in Feb 2015, and (b) informed them that only two out of the three bidders now remained in the process.

Bidder 1

5. Bidder 1 subsequently withdrew from the procurement process on 17 June. Their feedback was that the new information presented by us on 23 May “had not moved sufficiently” for them to feel confident enough to commit to continuing dialogue. For all the reasons they had flagged before – e.g. the financial envelope, procurement timelines, Burnholme site issues – they did not have sufficient comfort to commit the necessary resources to the process. “It is not right for us at this time”.
6. Bidder 1 is also expected to implement a national strategy of a programme of home closures - fifty of its existing care homes, most likely in areas of the country where they are more exposed to Local Authority fee levels.

Bidder 2

7. At our meeting on 21 May Bidder 2 made the following key points:
 - a. **Increased number of self-funder beds** – welcomed, bringing significant extra income into the financial model.
 - b. **Build costs** - the £15M in their original financial model was for the 162 places. This jumps to £17M build costs for the 192 places (extra 30 self-funder places) with fees and fixtures & fittings to be factored in on top. They stressed that capital costs are rising fast now that the economy and housing market is picking up.
 - c. **Profit levels** – they suggested there is little if any scope for movement on the profit levels factored into their financial model, stressing the huge challenges facing the care sector at present given the ever increasing demands of regulators, local authorities, the media, and customers. The key thing for Bidder 2 is certainty around revenue. However, the level of profit is an issue for dialogue as, together with 5% for overheads, it is close to 20%.
 - d. **Impact of the Care Act** - There is no change in their strategy - residential care remains a cornerstone of their business. They continue to develop new care homes and there are no plans for that to change, although it is getting ever harder. Long-term contracts with local authorities are still crucial but becoming increasingly difficult with some LAs placing unrealistic pressure on the provider to give £££ back. In terms of the Care Bill, they do not claim to know exactly how things will play out but they do not envisage a doomsday scenario for the sector,

more a difficult couple of years for providers (and, in turn, commissioners) where they will have to justify the prices they charge.

8. Bidder 2 submitted a revised set of indicative figures on 29 May. Having clarified a few points these latest figures were run through the CYC model presented to the last Board on 30 April. Unfortunately, there remains a significant affordability gap – £10.7M over the whole 15 years (without the mitigations on reduced profit levels or reduced capital costs). Further detail is shown in the spreadsheet in **Paper C**. We have shared this spreadsheet with Bidder 2, plus a high-level summary of our 2013/14 EPH costs.
9. The key contributory factor to the affordability gap is the reduced income to CYC given its reduction, over the first 3 years, in places from 162 to 126 – leading to a drop in our overall budget from £5.4M (162 places) to £4.85M (126 places). The 36 self-funder beds we relinquish were estimated by us to accrue our maximum charge of £500pw. Bidder 2 has calculated their self-funder charge to be £850-£900pw, hence them assuming the affordability gap had been bridged. Bidder 2 now understands the implications of the proposed mitigation on CYC's own budget.
10. We spoke with Bidder 2's Commercial Manager in a conference call on Mon 23 June and it is possible we will receive some slightly revised numbers before our Board meeting. Having discussed the impact of having fewer CYC beds on CYC's income we agreed the need to re-visit the financial impact of CYC going back to having the full 162 beds.
11. Bidder 2's Board meets on Tuesday 24 June. The bid team are seeking an in principal agreement from their board to continue in the dialogue process, and would then be looking to quickly resume discussions on bridging the affordability gap. Bidder 2 is now aware that it is the only bidder remaining in the process.

The Revised Deal

12. Before any decisions are taken, it is important that Board fully understand the 'revised deal' and timescales that are now on the table with Bidder 2, and are clear about where, how, and why CYC has moved from the original vision agreed by Cabinet in May 2012, and the revised vision agreed by Cabinet in June 2013. The table at Figure.1 captures the changes over time.
13. The latest key change relates to the number of beds that CYC will have nomination rights for. Although the city will be benefiting from the introduction of 192 high quality specialist residential care places, CYC will – after the initial 3 years – only be able to directly place residents in 126 of these places. The driving factor for this is the additional income that private providers can bring in from self-funders to help subsidise

the Local Authority places. This is the business model that underpins the residential care sector. CYC cannot charge more than the actual cost of care, so the 'profit' element is off-limits to the Council but not a private provider.

14. Given the delays within the procurement process the timescales for awarding the contract have slipped some eight months with a knock-on delay to the likely opening dates of the new care homes. There also remain risks at the Burnholme site that could yet further delay the opening date there.

	Care Home	Places	Care Provider	Opening Date	Comments
Cabinet May 2012	Fordlands	55	CYC	April 2014	
	Lowfield*	90	External	April 2014	* plus OP Housing
	Haxby Hall	55	CYC	April 2014	
		200			Full CYC nomination rights for all 200 places including 20 temporary beds
Cabinet June 2013	Burnholme	72	External	2016	
	Lowfield*	90	External	2016	* plus OP Housing
		162			Full CYC nomination rights for all 162 places including 20 temporary beds
Current Position June 2014	Burnholme	96	External	2017	
	Lowfield*	96	External	2017	* plus OP Housing - 80+ units
		192			After initial transition period, full CYC nomination rights for 126 places (106 permanent/20 temporary). Remaining 66 places for self-funders .

Fig 1. How the plans have changed since May 2012

15. Despite the changes outlined above, it is anticipated that the revised deal would still deliver the following **key outcomes**:

- a. Two modern care homes providing lifetime care
- b. Continuity of care for current residents who will move to the new homes with other residents and staff that they are familiar with.
- c. Continuity of employment for staff who will transfer across to the new care provider
- d. Guaranteed access to the type of specialist dementia/high dependency care places that the city needs most
- e. A high level of specialist dementia design and care support that is fully in keeping with York's ambitions to become a dementia-friendly city
- f. A household model that facilitates flexible, individualised care
- g. A community village at Lowfield comprising of 80+ units of housing accommodation for older people and a community hub

16. It is worth reminding Board, however, that the care home modernisation programme will only be successful if we – as a city and whole health and social care system – manage to help keep the 'frail elderly' living in their own homes for as long as possible and out of these specialist residential care facilities which must be reserved for residents with high dementia and/or physical dependency care needs. The interdependency between this programme and the wider 're-wiring public services' programme cannot be overemphasised.

17. Evidence of this avoidance of frail elderly admissions to our EPHs is now confirmed from overall figures in reductions in frail elderly placements. The demand for nursing places has risen slightly but the level of dependency of residents in our EPHs is rising constantly.

Plan B

18. The Board has already received reports on alternative options should the current procurement process fail – see 27 March 2014 and 30 April 2014. Given limited resources – stretched across this project and the 're-wiring public services' programme – it has not been possible to work up any of these options in significant detail. All of the options present significant challenges.

19. Of the various alternative options the most affordable was felt to be the gradual closure of the Council's seven care homes and commissioning of replacement places from the private sector. This option was costed for the last Board but the qualitative analysis

suggested that the downsides/risks of this option were too significant to be considered palatable by Cabinet.

20. **Paper D** provides a very high level analysis of the pros and cons of various alternative options. The project team feels that an urgent political steer is required on these options so that any further work can be focussed on those considered to offer realistic alternatives.

Resource Plan / Project Costs

21. This project has suffered from resourcing issues throughout its lifespan – in terms of the quantity, quality, and type of resources that have been available to it at key stages. The current situation is no different. Much will obviously depend on whether CYC and Bidder 2's Boards feel there is still life in the current procurement process, or that an alternative option needs to be considered and worked up. **Paper E** highlights a number of resourcing issues we will need to consider/address if we wish to resume competitive dialogue with Bidder 2.

22. The table below provides – for information – a high level summary of the project's total costs to date.

2011/12 spend £	2012/13 actual £	2013/14 actual £		2014/15 actual to date £	Total Actual Spend to Date £
	48,640	8,650	Fordlands	-	57,290
		37,251	Burnholme	-	37,251
	17,883	12,818	Lowfield	-	30,701
20,847	36,222	329,540	Project Wide	5,750	392,360
20,847	102,746	388,259	GRAND TOTAL	5,750	517,602

Some key costs to note within this figure include:

- £158k external legal costs to date
- £80k for the 'Dementia Care Matters' service development programme
- £50k procurement costs (secondment)
- £42k internal charges – Property Services

Capital Grant

2012/13	£168,000
2013/14	£393,000
TOTAL	£561,000

Some £70k of the total project costs to date have been written off to revenue:

- 2011/12 spend on preparatory work (£21k)
- 2012/13 Fordlands costs (£49k)

A project budget of £500k was approved by Cabinet (04/06/13) to complete the procurement process.

Timescales

23. Dialogue with one bidder instead of two should allow us to reduce the overall procurement timeline. We have drafted a new timeline but this has yet to be validated with Bidder 2. However, given Bidder 2's desire to proceed quickly, we think we could realistically achieve Bidder 2 making their final submission by mid-November, putting us in a position to make a recommendation for approval late November. It is feasible then to conclude the procurement process prior to local election Purdah next March, but we cannot afford any further significant delays in decision making.

Communication Plan

24. Whilst still engaged in Competitive Dialogue we have not been able to update interested parties on the progress of the procurement exercise. Over recent months various of these parties – e.g. The Press, Councillors, Trade Unions, EPH managers and staff – have pressed us for more information on progress. Our previous public statements have always suggested that we would be announcing the winning bidder sometime this summer (Annex B of the 4 June 2013 Cabinet Report suggested a best case scenario of May 2014, and worst case - Oct 2014).

25. Much will obviously depend on whether Board decides to continue the procurement process or explore an alternative option, but it will be helpful to get the Board's steer on our approach to communicating any update on the care home modernisation programme. Whatever, and whenever, the announcement it will be important to follow the approach that has served us well throughout the programme – delivering sensitive messages in a careful, well managed sequence:

- a. Briefing key external stakeholders that may be approached for a position (i.e. Age UK York and York Older People's Assembly)
- b. Briefing EPH Managers/staff and Care Management colleagues
- c. Updating all other stakeholders, including Health
- d. Updating EPH residents/relatives
- e. Media briefing.