

## BABERGH DISTRICT COUNCIL

<b>TO:</b> Cabinet	<b>REPORT NUMBER:</b>
<b>FROM:</b> Cllr Jan Osborne	<b>DATE OF MEETING:</b> 10 October 2019
<b>OFFICER:</b> Lee Crowdell, Tenant Services Corporate Manager	<b>KEY DECISION REF NO.</b>

### Extra Care Sheltered Housing Service Provision – Leasing Schemes to Orwell Housing Association

#### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek approval to begin the process of negotiating a long-term lease arrangement with Orwell Housing Association for the two Extra Care Sheltered Housing Schemes; William Wood House and Sydney Brown Court. These are both owned by Babergh District Council but are currently managed under contract by Orwell Housing Association. This contract was issued to Orwell Housing Association on 17 November 2011. This contract was due to expire on 31 March 2018, but it has continued by mutual agreement.
- 1.2 The proposal to lease the properties to Orwell was first considered in the options appraisal report, "*Options Appraisal on the Future of the William Wood House and Sydney Brown Court (Very Sheltered Housing Schemes)*" dated 3 May 2017. This was followed by a second report, "*Evaluation of the Council's Very Sheltered Housing Schemes*" dated 10 May 2019. The 2019 report considered, evaluated and commented upon the valuation and financial aspects of the 2017 report.

#### 2. OPTIONS CONSIDERED

- 2.1 Three options were considered as part of the evaluation process, and they are explored in more detail in section 4.13. These are summarized here:

##### 2.2 Option to Re-tender

The Council could re-tender the contract to provide the services for residents at William Wood House and Sydney Brown Court. This exercise was last carried out in 2004 and the market has not been tested since then. However, this option does not address the fundamental issues pertaining to the increasing costs and resources required to maintain and manage these properties as Extra Care facilities.

##### 2.3 Option to sell

The Council has the option to sell the properties. It is estimated that it would take approximately 12 to 18 months to properly market the properties.

A recent valuation report by Savills put the market value for Sydney Brown Court at £2,625,000 and William Wood House at £2,250,000. To achieve this, it would be necessary to decant the tenants to other accommodation or wait for the schemes to become empty over time in order that vacant buildings could then be sold.

However, it was assumed that any sale would take place with sitting tenants and would constitute a stock transfer. For that reason, Savills also calculated the Existing Use Value Social Housing (EUV-SH). This valued Sydney Brown Court at -£229,000 and William Wood House at -£213,000.

Both options would come with significant challenges and risks, and this report has not explored them in detail.

#### 2.4 **Option to Lease:**

If this option is agreed, then the Council's objective would be to grant a lease on a Full Repair and Insurance (FRI) basis, whereby the leasee is made responsible for all internal and external repairs and maintenance of the buildings, other structures and grounds, together with the providing adequate insurance for the buildings and their contents.

A commercial rent for the care homes would be in the order of £200,000pa to £250,000pa for each care home. However, this estimate of the rent may need to be adjusted downwards:

- as the rent is capped by the resident's tenancy agreements; and/or
- if the leasee is to be made responsible for certain planned capital expenditures to upgrade the care homes.

If this option is adopted, then the Council's Strategic Assets Team has enough expertise to negotiate the terms and conditions of the lease.

### **3. RECOMMENDATIONS**

- 3.1 **That approval is given to begin the process of negotiating a long-term lease arrangement with Orwell Housing Association for the two Extra Care Sheltered Housing Schemes; William Wood House and Sydney Brown Court.**

#### **REASON FOR DECISION**

- 3.2 The existing contract cannot be extended any further due to the length of time it has been in existence and the extensions historically provided. A decision on the long-term future of the sites is required to give all stakeholders security.

## 4. KEY INFORMATION

- 4.1 Orwell Housing Association have been providing management and care services at Babergh District Council's two Extra Care Sheltered Housing schemes since 2004. They won this through a competitive tendering exercise; these arrangements have not been tested in the open market since the management arrangement started.
- 4.2 The original contract expired on 31 August 2011. A new contract was issued to Orwell Housing Association on 17 November 2011, and this contract ran until May 2017. This was subsequently extended to 31 October 2017, and then to April 2020.
- 4.3 Orwell Housing Association provide all services for our tenants within the two schemes, while Babergh District Council are responsible for building maintenance and providing associated services (for example, periodic mechanical and electrical inspections and servicing, and compliance services). However, there are also a variety of building or tenant-related matters which can arise, and these are usually the responsibility of the Council to respond to. These matters can include problems with tenants (for example, non-payment of rent or service charges), ordering of supplies and materials, and the provision of facilities (for example, laundry or kitchen machinery). Resolving these issues can be resource-intensive for the Tenant Services team.
- 4.4 **William Wood House** is situated close to the centre of Sudbury. It consists of a grade II listed building; a former schoolhouse built around 1857, and a large two storey modern extension built in 1990. The older part of the property is of solid brickwork built in a Victorian gothic style. The modern 2 storey building is of cavity brick and block work design under a tiled roof. All buildings appear to be in a good state of repair.
- 4.5 The property contains 30 flats. This is an increase of 5 flats following work that was carried out in 2015/16.
- 4.6 **Sydney Brown Court** is on a corner location fronting primarily on to Tayler Road which is at the eastern end of Hadleigh town centre. The property is of a modern design of cavity brick and block work walling, with a multi-faceted roof. All buildings appear to be in a good state of repair.
- 4.7 The property contains 34 flats. This is an increase of 2 flats following work that was carried out in 2017/18.
- 4.8 **Allocations Policy**
- 4.9 To be eligible for Extra Care accommodation applicants will need to satisfy the following conditions:
- Be eligible for inclusion on the Housing Register
  - Be at least 60 years old

- Have access to funding either through Adult and Community Services (ACS) or privately.
- Need help with personal care, such as washing dressing or getting in and out of bed, providing medication etc. (it does not include cleaning, help with laundry, shopping etc.)
- Have housing needs because their home is unsuitable (i.e. because there is lack of basic amenities, or an applicant finds it difficult to move around the home, or the home makes the applicant's medical condition worse).

4.10 Priority is given to:

- Residents of the districts of Babergh or Mid Suffolk District Councils
- Applicants who have the most identified need for personal care, as identified by ACS or the scheme manager

4.11 The consideration of applications, and the award of places, is undertaken by an Allocations Panel consisting of:

- Representatives of Babergh District Council
- Representatives of the Orwell Housing Association
- Representatives of Adult and Community Services

#### 4.12 **Extra Care Sheltered Housing provision in Suffolk**

4.13 The following table shows the Extra Care Sheltered Housing Schemes within Suffolk which are managed by Registered Housing Providers:

<b>Service Name</b>	<b>Units</b>	<b>Location</b>	<b>Operator</b>
Oxslip House	52	Bury St Eds	Order of St Johns
PepperCorn House	23	Ipswich	Heritage
BlackBourne View	33	Ixworth	Orwell & H21
Marram Green	32	Kessingland	Orwell & Flagship HA
Swann House	24	Saxmundham	Orwell & Flagship HA
Jamie Cann House	32	Ipswich	Orwell & Flagship HA
Margery Girling House	32	Felixstowe	Orwell & Flagship HA
Steeple View	34	Stowupland	Orwell
Deben View	32	Woodbridge	Orwell
Seckford		Woodbridge	Seckford Foundation
Exning court	34	Exning	Sanctuary
Cullum Road	32	Bury St Eds	Radis & Orbit
Sherman Court	21	Newmarket	H21
Paddy Geere	36	Ipswich	Abbey Field
Oak House	38	Sutton	H21
William Wood	30	Sudbury	Orwell & BDC
Sydney Brown	34	Hadleigh	Orwell & BDC
Emily Bray House	45	Ipswich	Orwell

Levington Court	58	Lowestoft	Orwell
Pitches View	32	Reydon/southwold	Orwell

#### 4.14 Benefits vs Non-benefits

Some of the benefits, or otherwise, of the three options considered are set out below:

OPTION	BENEFITS	NON-BENEFITS
Sell	<ol style="list-style-type: none"> <li>1. The possibility of significant income for the Babergh HRA via a market sale, which could be re-invested in new homes.</li> <li>2. Once sold then the properties will require no resources or time on the part of Babergh</li> </ol>	<ol style="list-style-type: none"> <li>1. Decision could prove unpopular with residents who may fear losing their homes. This could cause reputational problems for Babergh.</li> <li>2. The process would likely take at least a year to complete, probably longer, with no clear buyer at present.</li> <li>3. Orwell Housing have already indicated they would not be interested and the contract arrangement currently in place could become hard to manage during sale process</li> <li>4. There would be the potential loss of extra care sheltered housing schemes in Babergh. This could lead to higher costs elsewhere in the local housing and support network (i.e property adaptations or home care services)</li> </ol>
Lease	<ol style="list-style-type: none"> <li>1. In principle, Orwell are keen on this option which makes it easier to deliver with minimum disruption to tenants, assuming a lease agreement can be reached.</li> <li>2. Once a lease is in place then the properties should require much less</li> </ol>	<ol style="list-style-type: none"> <li>1. Process of reaching agreement with tenants and Council could be extensive and time-consuming.</li> <li>2. Some uncertainty at present about level of agreement that is required, but suggestion that Central Government</li> </ol>

	<p>resources or time on the part of Babergh</p> <p>3. Orwell have a good reputation for the provision of sheltered and extra care facilities and some certainty exists about the quality that tenants can expect in the future</p> <p>4. There is the potential to reduce costs and increase income. A lease would greatly reduce the time required of Babergh Council staff in managing a re-tendered contract.</p>	<p>approval may be needed.</p> <p>3. Potential for strong tenant or other stakeholder resistance to proposal (tenants losing secure Council tenancies in favour of assured tenancies)</p>
Re-tender contract	<p>1. A relatively simple 'business as usual' decision.</p> <p>2. A well-written contract could reduce the current resource problems that the existing contract leads to.</p> <p>3. Babergh continue to enjoy a reasonable rent and service charge income.</p> <p>4. Babergh retain control over the buildings and their long-term condition</p>	<p>1. Uncertain at present whether Orwell would favour this option. This could lead to difficulties managing existing contract in the interim.</p> <p>2. In 2004, when market was last tested, Orwell were the only organisation to tender. This could well be the case again. It is likely that Orwell will significantly increase their management fee.</p> <p>3. It is possible, even with an improved contract in place, that the arrangement remains a time-consuming one for Babergh to manage</p>

## 5. LINKS TO HOMES AND HOUSING STRATEGY

5.1 This proposal takes into account the following strategy aims from the Homes and Housing Strategy:

5.2 **Vision 7.** People live in vibrant and well-connected communities; and homes and communities continue to meet the needs of residents into the future

5.3 **Vision 8.** Everyone has a suitable home, and residents are able to live as healthily, safely, independently as possible within sustainable communities

5.4 **Vision 9.** Both Councils have strong relationships with residents, developers and partners that enable us to deliver housing, infrastructure and services effectively, and to innovate where appropriate

## 6. FINANCIAL IMPLICATIONS

### 6.1 Income

6.2 Tenants at William Wood House and Sydney Brown Court hold secure tenancies with Babergh District Council and pay rent and service charges to the Council. They also pay a Care and Wellbeing charge directly to Orwell Housing Association.

6.3 The rent and charges for both schemes for 2018/19 and 2019/2020 are as follows:

<b>Date:</b>	<b>Rent*:</b>	<b>Service Charges*:</b>	<b>Utility Charges*:</b>	<b>Well-being Charge*:</b>
2018/19	£74.54	£37.20	£21.00	£105.34
2019/20	£73.79	£37.20	£22.05	£105.34

\*Denotes weekly charge

6.4 The following table shows the service and utility charge elements for William Wood House and Sydney Brown Court. Not included are some on-going costs, for example, business rates, lift maintenance, commercial printing, or PAT testing.

<b><u>Description</u></b>	<b><u>William Wood House</u></b>	<b><u>Sydney Brown Court</u></b>
Plant maintenance	Yes	Yes
Communal area repairs	Yes	Yes
Window cleaning	Yes	Yes
Cleaning materials	Yes	Yes
Electricity	Yes	Yes
Gas	Yes	Yes
Water rates (Metered)	Yes	Yes
Miscellaneous premises costs	Yes	Yes
Legionella testing	Yes	Yes
Fire prevention	Yes	Yes
Telephone costs	Yes	Yes
Equipment, tools & materials	Yes	Yes
Community alarm costs	Yes	
Improvements		Yes
TV licences	Yes	Yes
Surveyors costs	Yes	Yes
Grounds maintenance	Yes	

6.5 The income for **William Wood House** for 2016/17, 2017/18 and 2018/19 is as follows:

**William Wood House:**

<b>Date:</b>	<b>Rent:</b>	<b>Service Charges:</b>	<b>Total Income:</b>
2016/17	£ 83,085	£ 55,927	£139,012
2017/18	£ 90,035	£ 66,625	£156,660
2018/19	£117,048	£ 86,250	£203,298

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Av. Annual			
Increase (%)	19.2%	24.3%	21.2%

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The significant increases in rent and service charge income is partly due to the increase in the number of units at the scheme, and improved performance (increased rent collection and lower void times)

6.6 The income for **Sydney Brown Court** for 2016/17, 2017/18 and 2018/19 is as follows:

**Sydney Brown Court:**

<b>Date:</b>	<b>Rent:</b>	<b>Service Charges:</b>	<b>Total Income:</b>
2016/17	£102,973	£ 63,089	£166,062
2017/18	£112,874	£ 79,215	£192,089
2018/19	£131,008	£100,104	£231,112

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Av. Annual			
Increase (%)	12.8%	25.9%	17.9%

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The significant increases in rent and service charge income is partly due to the increase in the number of units at the scheme, and improved performance (increased rent collection and lower void times)

6.7 The projected income for **William Wood House** for 2019/20, 2020/21 and 2021/22 is as follows:

**William Wood House:**

<b>Date:</b>	<b>Rent:</b>	<b>Service Charges:</b>	<b>Total Income:</b>
2019/20	£115,877.52	£ 86,250.00	£202,127.52
2020/21	£119,585.60	£ 94,012.50	£213,598.10
2021/22	£127,238.12	£ 94,012.50	£221,250.62

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Av. Annual			
Increase (%)	4.8%	4.5%	4.6%

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6.8 The projected income for **Sydney Brown Court** for 2019/20, 2020/21 and 2021/22 is as follows:



**Sydney Brown Court:**

<b>Date:</b>	<b>Rent:</b>	<b>Service Charges:</b>	<b>Total Income:</b>
2019/20	£129,697.92	£100,104.00	£229,801.92
2020/21	£133,848.25	£109,113.36	£242,961.61
2021/22	£142,413.47	£109,113.36	£251,526.83

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Av. Annual			
Increase (%)	4.8%	4.5%	4.6%

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**6.9 Expenditure**

6.10 Babergh District Council are responsible for all repair and maintenance costs at William Wood House and Sydney Brown Court and pays an annual fee to Orwell Housing Association for the provision of management services at both schemes.

6.11 This section covers the principle areas of expenditure in relation to the two schemes. It has not included the costs of staff time at Babergh District Council in the management and administration of the contract with Orwell Housing Association

6.12 The expenditure for **William Wood House** for 2016/17, 2017/18 and 2018/19 is as follows:

**William Wood House:**

<b>Date:</b>	<b>Management:</b>	<b>Maintenance:</b>	<b>Total Expense:</b>
2016/17	£92,147	£28,501	£120,649
2017/18	£92,900	£12,821	£105,722
2018/19	£96,652	£11,546	£108,198

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Av. Annual			
Increase (%)	2.43%	-32.5%	-5.0%

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6.13 The expenditure for **Sydney Brown Court** for 2016/17, 2017/18 and 2018/19 is as follows:

**Sydney Brown Court:**

<b>Date:</b>	<b>Management:</b>	<b>Maintenance:</b>	<b>Total Expense:</b>
2016/17	£ 59,650	£26,987	£ 86,733
2017/18	£ 80,596	£12,218	£ 92,814
2018/19	£114,291	£11,903	£126,194

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Av. Annual			
Increase (%)	38.5%	-28.7%	21.5%

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**6.14 Management costs**

6.15 The management costs include the service chargeable elements (see section 6.1), and the sum paid to Orwell Housing for the management service they provide. This covers the cost of a manager, a cleaner, an overnight member of staff and associated administration. For 2018/19 the actual spends were £55,116.50 for William Wood

House (against a projection of £42,931), and £63,893.86 for Sydney Brown Court (against a projection of £43,486).

- 6.16 The reason for the increased spend was the need for occasional additional overnight staff. Orwell Housing have reported that it has become increasingly difficult to recruit staff who are willing to work alone in Extra Care Sheltered Housing Schemes at night.
- 6.17 Orwell did request that two members of overnight staff at both locations become the norm from 2019/2020 onwards (at a cost of £68,056 for William Wood House and £72,016 for Sydney Brown Court) but this was refused. It is likely, though, that any extension to the existing contract from 2020 onwards, or re-tendering, will require that we agreed to the additional staff.
- 6.18 **Maintenance costs**
- 6.19 The planned maintenance costs for both schemes are set out in stock condition surveys completed by Babergh District Council surveyors in January 2017 (see background documents). The identified work and associated costs covered a 20-year period.
- 6.20 For the first two years of the stock condition report period the actual costs have been significantly lower than the projected costs. This is the result of work being delayed pending the outcome of the options appraisal process.

	<b>Sydney Brown Court:</b>		<b>William Wood House:</b>	
	<b>Projected Expenditure</b>	<b>Actual Expenditure</b>	<b>Projected Expenditure</b>	<b>Actual Expenditure</b>
2017/18	£85,454	£12,218	£102,215	£12,821
2018/19	£85,454	£11,903	£102,215	£11,546
2019/20	£150,193		£82,536	
2020/21	£150,193		£82,536	
2021/22	£150,193		£82,536	
2022/23	£81,636		£97,664	
2023/24	£81,636		£97,664	
2024/25	£81,636		£97,664	
2025/26	£81,636		£97,664	
2026/27	£81,636		£97,664	
2027/28	£97,228		£85,824	
2028/29	£97,228		£85,824	
2029/30	£97,228		£85,824	
2030/31	£97,228		£85,824	

- 6.21 It is recommended that a second independent stock condition survey be carried out prior to the lease negotiations.

## 6.22 Annual Repairs

6.23 The annual repairs costs averaged over the past three years in £17,623pa for William Wood House and £17,036pa for Sydney Brown Court.

## 6.24 Property valuation

6.25 The 2019 report (see background documents) uses a DRC approach to value both properties, with 2019 BCIS costings. It indicates that the building costs of each care home (as they are of similar size) is in the order of £2,400,000 plus fees. The land value would be in the order of £400,000 to £600,000 dependent of the size of plot.

6.26 This is supported by research that shows Christie & Co. are currently reporting two “care homes with nursing” (non-local authority), one catering for 30 residents and the other for 31 residents, have been sold in East Anglia for £2,500,000 and £3,650,000 respectively. The 2019 report includes other examples of prices for care and nursing homes.

6.27 Subsequent work carried out by Savills has been broadly supportive of this assessment.

## 7. LEGAL IMPLICATIONS

7.1 Research was carried out in 2014, 2016 and 2017 as to the legal implications of leasing the two schemes to Orwell Housing Association.

7.2 The solicitor’s firm, Devonshires, were asked in September 2014 “whether the granting of a short term lease (understood to be for a fixed term of less than 7 years) to Orwell by Babergh DC of tenanted accommodation gives rise to any requirement for consent under the Housing Act 1985?”

7.3 The response was that the Secretary of State’s consent is required under section 32 of the Housing Act 1985. In addition, the granting of the lease would have the “consequence of ‘severing’ the landlord condition necessary under section 80 of the Act for tenancies to remain secure tenancies. This means that section 106A of the Act is also relevant. This means that the tenants affected by the disposal will need to be consulted on the disposal in accordance with the provisions set out in schedule 3A to the Act before the DCLG [the Department of Communities and Local Government] will countenance giving its consent to the proposed disposal”.

7.4 The DCLG (now the MCHLG, or the Ministry of Communities, Housing and Local Government) were contacted on 19 December 2016 in light of the advice received from Devonshires and asked the following:

- whether the DCLG would consider the leasing arrangement to be a Stock Transfer

- Would DCLG / Secretary of State approval be required if Babergh District Council progressed with a lease?

- 7.5 The DCLG response on 20 January 2017 stated that “is unclear to us how this could be a stock transfer (under sections 32-34 and/or 43 of the Housing Act 1985) given the fact that the stock will not be sold to the housing association but still owned by the Babergh DC and ... still retained under their HRA.”
- 7.6 In subsequent correspondence the DCLG suggested that “this type of transfer to a housing association may fall under section 25 of the Local Government Act 1988 [a simpler and less onerous consent process]. But it would be ultimately for the Council to seek its own legal advice and determine which legislation is required for this lease.”
- 7.7 As the advice from Devonshires and DCLG was contradictory the Shared Legal Service were also contacted. They advised (on the 22 March 2017) that “section 32 of the 1985 Act most certainly applies to this transaction and it therefore requires the [Secretary of State’s] consent.”
- 7.8 The Shared Legal Service were contacted again on 10 June 2019 but no update on the previous advice could be provided at that time.
- 7.9 It is assumed that the advice received from Devonshires in 2014 and the Shared Legal Service in 2017 remains the most accurate advice regarding the consent that is required. If Babergh District Council agree that the leasehold option should be pursued, then resident consultation will then be carried out. If residents agree then approval will be sought from the MCHLG

## 8. RISK MANAGEMENT

- 8.1 This report does not closely link with any risks on the Significant Risk Register however the following key operational risk applies as set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Failure to agree an option with Orwell, SLT, Members and residents could lead to a further extension of the existing contract and arrangement. This could adversely affect the working relationship with Orwell, see a deterioration in, or an inability to improve, the services for tenants and delivery poor value for money for Babergh.	3 – Probable	3 - Bad	Assets team revising the options appraisal, with meetings being held with Orwell to agree option. Report to be produced outlining options and preferred option for SLT. Meeting with Governance to agree decision making level.

## **9. CONSULTATIONS**

9.1 There have been no resident consultations carried out to date.

## **10. Next Steps**

10.1 It has been agreed that the Strategic Assets team will lead on lease negotiations, and the Tenant Services team will lead on resident consultation and engagement throughout the process.

10.2 Both aspects of the project will be progressed if approval is given.

10.3 Presuming that the lease negotiations are successful, and tenants are in agreement with the proposal, the project will be brought back to Cabinet for final approval prior to seeking MCHLG approval.

## **11. Time Scale**

11.1 It is difficult at this stage to determine the likely timescale to have a lease in place. It is likely that the consultation with residents and the lease negotiations could be completed by April 2020. However, the amount of time required for a MCHLG decision is unknown.

## **12. Costs**

12.1 The main costs of this project would be felt in staff time and resource. However, recent property valuations were carried out by Savills (approximate cost, £7500) and an independent stock condition survey would likely cost in the region of £8000-£10,000. In addition, there will be legal costs associated with the development of the lease but it is not clear at this stage how much these will be.

12.2 The option to lease would likely create a significant amount of work for the Strategic Assets Team who would be responsible for much of the lease negotiation and development and commissioning external organisations as required.

12.3 In addition, consulting and on-going liaison with tenants at both schemes will create additional work for the Tenant Services Team. It is anticipated that most of the work in this area will be carried out by the Tenant Services Professional Lead and members of their team as required.

## **13. EQUALITY ANALYSIS**

13.1 The initial screening was completed on the 17 September and will be reviewed throughout the project.

13.2 The screening determined that:

- There is **no** potential for differential impact (negative or positive) on any of the protected characteristics
- There is **no** possibility of discriminating unlawfully, directly or indirectly, against people from any protected characteristic
- There would be **no** effect on relations between certain groups
- The proposal does **not** explicitly involve, or focus on a particular equalities group

#### **14. ENVIRONMENTAL IMPLICATIONS**

14.1 There are no anticipated environmental implications.

#### **15. APPENDICES**

15.1 There are no appendices to this report.

#### **16. BACKGROUND DOCUMENTS**

- 16.1 “Options Appraisal on the Future of the William Wood House and Sydney Brown Court (Very Sheltered Housing Schemes)”, 3 May 2017.
- 16.2 “Evaluation of the Council’s Very Sheltered Housing Schemes”, 10 May 2019.
- 16.3 Stock Condition Surveys for Sydney Brown Court and William Wood House, January 2017