

Record of Decisions

The granting of a long lease for the Ocombe House Site

Decision Taker

Mayor on 18 October 2012

Decision

That the Executive Head of Commercial Services, in consultation with the Chief Executive of the Torbay Development Agency, be authorised

- i) to permit the assignment of the current lease relating to Ocombe House and Fairwinds Day Centre to the Torbay and Southern Devon Health and Care NHS Trust (formerly Torbay Care Trust) chosen service provider;
- ii) to grant an Agreement for Lease and Lease (for 40 years at a peppercorn rent) to the Torbay and Southern Devon Health and Care NHS Trust chosen service provider for the site shown edged red on plan EM1898 on acceptable terms and for no capital premium under the Local Government Act 1972: General Disposal Consent 2003; and
- iii) if, following the Torbay and Southern Devon Health and Care NHS Trust's procurement exercise, their chosen service provider require a lease with a longer term than 40 years, then the Head of Commercial Services in consultation with the Mayor, Executive Lead of Adult Social Care and Older People and the Chief Executive of the Torbay Development Agency, be authorised to agree such longer term as she considers appropriate up to a maximum of 125 years.

Reason for the Decision

The granting of the lease would enable the current and future residents of Ocombe House to live independently at the site, as the intention is for the current lease to the Torbay and Southern Devon Health and Care NHS Trust be assigned to the chosen service provider with them then working with the families and Planning Officers (South Hams District Council) to redevelop the site for independent living accommodation with the proposal having social and economic benefits.

The lease should be for a maximum of 40 years, as any lease, which is longer than 40 years the Upper Tribunal (formerly the Lands Tribunal), under s84 of the Law of Property Act 1925 may on certain grounds, after 25 years into the term, discharge or modify restrictions as to user or buildings on the land affecting the leasehold interest. Only granting a lease to a maximum lease of 40 years therefore would prevent the service provider applying to the Upper Tribunal thus safe guarding the Council's position.

Implementation

This decision will come into force and may be implemented on 29 October 2012 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

Following discussions with the families of the remaining residents at Occombe House, the Torbay and Southern Devon Health and Care NHS Trust are undergoing a procurement exercise to appoint a service provider. The intention is that this service provider would run Occombe House in its current format and within a specified period, work with the families and Planning Officers to finalise proposals for the redevelopment of the site to provide independent supported living for the current and future residents.

Alternative Options considered and rejected at the time of the decision

The alternative proposals considered were:

- i) That the Council does not agree to the Trust's proposals. The Trust would in the immediate period continue to run the home in accordance with the current lease. However this would not meet the aspirations of the families of the current residents. In these circumstances the Torbay and Southern Health Care NHS Trust and the Council would need to urgently review the position to find a way forward for the Occombe House residents and carers.
- ii) If the proposals did not proceed and circumstances changed then the responsibilities for the management of the site may revert back to the Council. As a consequence it would 'inherit' all the running costs and the repairs & maintenance liability of circa £186,800 (as identified in a condition survey carried out in August 2012).

Is this a Key Decision?

Yes – Reference Number: I010796

Does the call-in procedure apply?

Yes

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

18 October 2012

Signed: _____
Mayor of Torbay

Date: _____