

Finance Sub-Committee

10 March 2025

**Beechmere Fire and Renegotiation of
the PFI Contract**

**Report of: Helen Charlesworth-May, Executive Director for Adults,
Health and Integration**

Report Reference No: FSC/34/24-25

Ward(s) Affected: Crewe St Barnabas, Handforth, Middlewich

For Decision or Scrutiny: Decision

Purpose of Report

- 1 The purpose of this report is to update members on the Cheshire Extra Care Housing (ECH) Private Finance Initiative (PFI) contract and the progress of the renegotiations of that contract, following the destruction of the Beechmere scheme by fire in 2019.
- 2 Members are being asked to authorise the Executive Director for Adults, Health and Integration in consultation with the Chair of Finance Sub-Committee and the Governance, Compliance & Monitoring Officer to continue and conclude the renegotiation of the PFI contract as lead authority and on behalf of Cheshire East Council and take all steps to implement the actions and outcomes of changes made to the contract.

Executive Summary

- 3 Under PFI arrangements, the responsibility to design, build, finance and operate assets transfers to the private sector. The contracting authority pays the costs for the facilities through a monthly unitary charge. The funding for the unitary charge comes from a combination of funding from the contracting authority's budget and support from central government in the form of a revenue grant.
- 4 Cheshire County Council commissioned five ECH schemes through a PFI arrangement in 2007. The County Council entered into a 30-year contract with Advantage (Cheshire) Limited, a Special Purpose Vehicle (SPV) created especially for this project. Two of the five schemes are within the Cheshire West and Chester footprint and three (including Beechmere) are in Cheshire East.

- 5 Following local government reorganisation in 2009, Cheshire East Council manages the PFI Contract on behalf of both local authorities.
- 6 On 08 August 2019, there was a major fire at Beechmere in Crewe which destroyed most of the building. Fortunately, all residents, staff and visitors were safely evacuated from the building.
- 7 The Councils have entered into formal negotiations with Advantage with a view to agreeing a settlement and variation to the original PFI Project Agreement ("PA Variation").
- 8 The Councils, Advantage and Your Housing Group (YHG - Advantage's sole shareholder) are currently meeting virtually on a weekly basis, and monthly in-person, to progress the negotiations at pace.
- 9 The purpose of this report is to seek endorsement of the current proposed approach and a delegation to the Executive Director for Adults, Health and Integration in consultation with the Chair of Finance Sub-Committee and the Governance, Compliance & Monitoring Officer to agree a settlement and implement a renegotiated contract.
- 10 The principles for renegotiation have been developed in consultation with the Infrastructure and Projects Authority (IPA - advisers to HM Treasury) and the Ministry of Housing, Communities and Local Government (MHCLG), and take into account advice from the Councils' external legal and financial advisers and the progress of the negotiations to date.
- 11 It is to be noted that the proposed approach aims to reach an agreement so that the council operates within the existing financial envelope and contract mechanisms for the project.

RECOMMENDATIONS

The Finance Sub-Committee is recommended to:

1. Note the progression of negotiations in relation to the Extra Care Housing arrangements in an effort to reach a negotiated settlement for the survival of the project.
2. Note that any settlement agreement is subject to approval from the MHCLG and HM Treasury/Infrastructure and Projects Authority.
3. Authorise the Executive Director for Adults, Health and Integration in consultation with the Chair of Finance Sub-Committee and the Governance, Compliance & Monitoring Officer to negotiate and enter into a settlement agreement with the PFI Provider for the Extra Care Housing contract.

4. Authorise the Governance, Compliance & Monitoring Officer to implement any subsequent amendments required to the PFI contract as a result of the settlement agreement.
5. Authorise the Executive Director for Adults, Health and Integration to extend external adviser contracts as needed to achieve the settlement agreement and implementation.

Background

CHESHIRE EXTRA CARE HOUSING PFI ARRANGEMENTS

- 12 In October 2007, Cheshire County Council entered into an Extra Care Housing PFI contract with Avantage (Cheshire) Limited. Services commenced in January 2009. The contract covers the design, build, financing and management of five mixed tenure ECH schemes, three in Cheshire East (Willowmere in Middlewich, Oakmere in Handforth and Beechmere in Crewe) and two in Cheshire West & Chester (Hollymere in Ellesmere Port and Hazelmere in Winsford) and runs for 30 years.
- 13 On the dissolution of Cheshire County Council, the PFI contract was passed down to Cheshire East Council and Cheshire West and Chester Council and it was agreed that Cheshire East Council would be the lead council for this project.
- 14 Commissioning assets using PFI arrangements means that the responsibility to design, build, finance and operate the assets transfers to the private sector. The contracting authority pays for the facilities and services provided via a monthly unitary payment. This unitary payment is funded partly by revenue support from central government in the form of PFI Grant and partly via a top-up from the contracting authority's budget.
- 15 Under the Cheshire PFI arrangements, Cheshire County Council commissioned Avantage to design, build, finance and operate five extra care schemes.

BEECHMERE FIRE

- 16 Of the five schemes built under the Cheshire PFI Agreement, the scheme in Crewe, Beechmere, was the largest. It was mixed tenure (with social rented, shared ownership and leasehold apartments) and had extensive communal areas. There were 132 apartments in the scheme: 75 were rented apartments included in the PFI Agreement and the other 57 were shared ownership and leasehold apartments that

were not covered by the PFI arrangements. The PFI arrangements covered all communal and management areas.

- 17 On 08 August 2019, fire broke out at Beechmere and spread quickly, leading to the virtual destruction of the scheme.
- 18 All residents, staff and visitors were safely evacuated from the building and residents were relocated to emergency temporary accommodation, such as care homes and other extra care schemes. All 147 residents were subsequently moved again into longer-term temporary accommodation, where many still reside.
- 19 Almost immediately after the fire, the Councils began discussions with Advantage over the reinstatement of the scheme.
- 20 In the meantime, investigations and surveys were carried out on the part of the building that remained after the fire and they revealed that there were construction/design defects which contributed to the spread of the fire, including defective or missing cavity barriers and a lack of roof compartmentation.
- 21 Subsequent surveys undertaken on the remaining four PFI Extra Care Housing schemes revealed that similar fire protection defects were also present in those schemes.

RENEGOTIATION OF THE PFI CONTRACT

- 22 Formal negotiations to agree a settlement and variations to the original Project Agreement commenced shortly after YHG took control of Advantage. The negotiations were initially led by Cheshire East's Executive Director of Place, Frank Jordan, who received delegated responsibility to negotiate and enter into a settlement agreement from Finance Sub-Committee in July 2021. The lead officer for Cheshire East has changed several times since then and responsibility for continuing the discussions is currently with the Executive Director for Adults, Health and Integration. This report seeks to regularise the position and formally authorise the Executive Director for Adults, Health and Integration in consultation with the Chair of Finance Sub-Committee/Governance, Compliance & Monitoring Officer to conclude and implement any agreed settlement. Cheshire West and Chester Council have been working closely with Cheshire East Council on the negotiations and their lead officers have also changed more than once during the negotiations, with responsibility currently lying with Simon Riley, Chief Operations Officer.
- 23 The negotiating leads for both Councils are supported by internal Legal, Finance and Technical colleagues and by externally commissioned advisers.

- 24 Any changes to the Project Agreement (the main contract between the Councils and Advantage) resulting from the negotiations must be approved by MHCLG and HM Treasury. The Councils are in discussions with MHCLG and HM Treasury's Infrastructure and Projects Authority (IPA) to ensure as far as possible that any proposals being discussed with Advantage will meet their approval.

ESTIMATED TIMELINE FROM 01 MARCH 2025

- 25 The table below details the estimated timeline for the negotiations and building of the new scheme. The timings beyond March 2025 are progressively more uncertain.

31 March 2025	Heads of Terms to be agreed by all parties
Summer 2025	Advantage to obtain planning permission for the new building (may take 3-6 months)
November/December 2025	All matters agreed, and Settlement Agreement and other associated documents drafted.
Dec 2025-Mar 2026	Settlement Agreement to be approved by all parties including the relevant central government body/bodies and signed by the contract parties. PA Variation to be implemented.
Spring/Summer 2026	Construction to begin
Late 2027/Early 2028	New scheme opens?

NB central government approval could take 6 weeks to 6 months depending on the type and complexity of changes to be made to the contract documents and transfer of risk.

Consultation and Engagement

- 26 The Councils have consulted with MHCLG, the IPA and HM Treasury on the proposed negotiating position. All have indicated that they are willing to support the project to avoid a termination scenario.
- 27 Originally, Advantage set up regular meetings with the former residents of Beechmere to ensure that they were kept informed of progress and could comment on designs for the new scheme. As time has passed,

these meetings have become more sporadic, but Advantage are continuing to keep residents informed of significant developments.

Reasons for Recommendations

- 28 The Councils have considered all available contractual options and have taken account of external advice on the implications of each option on the project.
- 29 The negotiation principles and proposal set out in this report are designed to enable the Councils to operate within the existing financial parameters for the Project.

Other Options Considered

- 30 The current preferred option is to renegotiate the PFI contract to include the building of a smaller scheme. Should the negotiations be unsuccessful termination will have a range of legal and financial implications.

Implications and Comments

Monitoring Officer/Legal

- 31 The content of this report is based on advice from the Councils' externally appointed specialist legal, financial and technical advisers.
- 32 Prior to any agreed settlement, the Councils will ensure that there is no objection to such settlement from Central Government/IPA/MHCLG (in particular any objection to what might be deemed "contribution" by the Councils to that settlement). In addition, the Councils will ensure that Subsidy Control requirements and/or restrictions are complied with.
- 33 Any agreed settlement terms, including any variation to the Project Agreement, shall be on legally binding formal written terms, with input from externally appointed specialist legal, financial and technical advisers, as well as internal officers.
- 34 In the event that settlement is not secured, the Councils will ensure that external legal, financial and technical advice is obtained.

Section 151 Officer/Finance

- 35 The proposals recommended in this report have several potential financial implications for Cheshire East Council's approved budget and Medium-Term Financial Strategy (MTFS). The result of the negotiations will determine the value of these.
- 36 The Finance team supports the recommended approach, recognising that based on the information available, it will likely result in the best

value for money outcome. If the negotiations yield a positive outcome, it is possible that no unexpected additional costs will be incurred. However, the Council should be aware that unforeseen expenses may arise during the renegotiation process.

Budget

- 37 The majority of the ECH PFI contract is covered by the PFI Grant of £4.12m per annum. The Councils are working to secure ongoing payment of this amount from MHCLG.

Accumulated Beechmere PFI Grant

- 38 This paper explains that since the fire, the Councils have not been paying the unitary charge in respect of Beechmere. By the end of 2024/25, £7.276m of PFI Grant received in relation to Beechmere will have been accumulated.

39 Financial Implications associated with the recommendation

- Approval - Delays to central government's approval for the settlement agreement and PA Variation could result in extended advisory costs.
- Use of the accrued PFI Grant is subject to MHCLG approval. If this approval was withheld for any reason, this would result in a funding shortfall that the Council would need to address.

Policy

- 40 The new extra care scheme planned for the Beechmere site would be subject to planning permission and would have to comply with relevant planning policies.

Equality, Diversity and Inclusion

- 41 There are no policy equality, diversity and inclusion implications to this report.

Human Resources

- 42 There has been considerable officer resource assigned to the renegotiation and this is likely to continue until the negotiations have concluded. Should the negotiations be successful, there will then be a period of more limited but still additional resource required during the building phase, prior to transfer back to business as usual.

Risk Management

- 43 The main risks to the Council associated with the PFI Project are around the possible termination of the contract. The mitigation against these risks is to negotiate a settlement with the PFI contractor that is agreed by all stakeholders.

Rural Communities

- 44 There are no implications to rural communities in this report.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 45 There are no implications to children and young people, and cared for children, in this report.

Public Health

- 46 As part of the negotiation process and in considering a specification for the new build, reduction of health inequalities will be considered.

Climate Change

- 47 Again, as part of the negotiation process, consideration will be given to designing the new building to meet climate change requirements and contribute towards the aim for the borough to be carbon neutral.

Access to Information	
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Appendices:	Appendix 1 – Part 2
Background Papers:	n/a