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## Improving Care Home Provision for Older People in Central Bedfordshire

Report of Cllr Carole Hegley, Executive Member for Social Care and Housing ([carole.hegley@centralbedfordshire.gov.uk](mailto:carole.hegley@centralbedfordshire.gov.uk))

Advising Officers: Julie Ogley, Director of Social Care, Health and Housing ([julie.ogley@centralbedfordshire.gov.uk](mailto:julie.ogley@centralbedfordshire.gov.uk)) and Tim Hoyle, MANOP Head of Service ([tim.hoyle@centralbedfordshire.gov.uk](mailto:tim.hoyle@centralbedfordshire.gov.uk))

**This report relates to a Key Decision**

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### Purpose of this report

1. For the Executive to consider the new opportunity in Dunstable to further improve care home provision and to authorise the commencement of consultation on the proposals contained within this report.

### RECOMMENDATIONS

The Executive is asked to:

1. **recognise and respond to the opportunities to further improve care home provision for older people in the Dunstable area by authorising the commencement of formal consultation on proposals for the future of Greenacre Older Persons' Home (OPH) and the services provided from it, as set out in paragraphs 36 to 48 of this report; and**
2. **request that a report is submitted to a future meeting of the Executive advising of the outcome of the consultation and making recommendations about the future of the home and the services provided from it.**

### Overview and Scrutiny Comments/Recommendations

2. It is proposed that the outcome of the consultation process set out in this report will be reported to a future meeting of the Social Care Health and Housing Overview and Scrutiny Committee prior to a decision being made by the Executive on the future of Greenacre OPH.

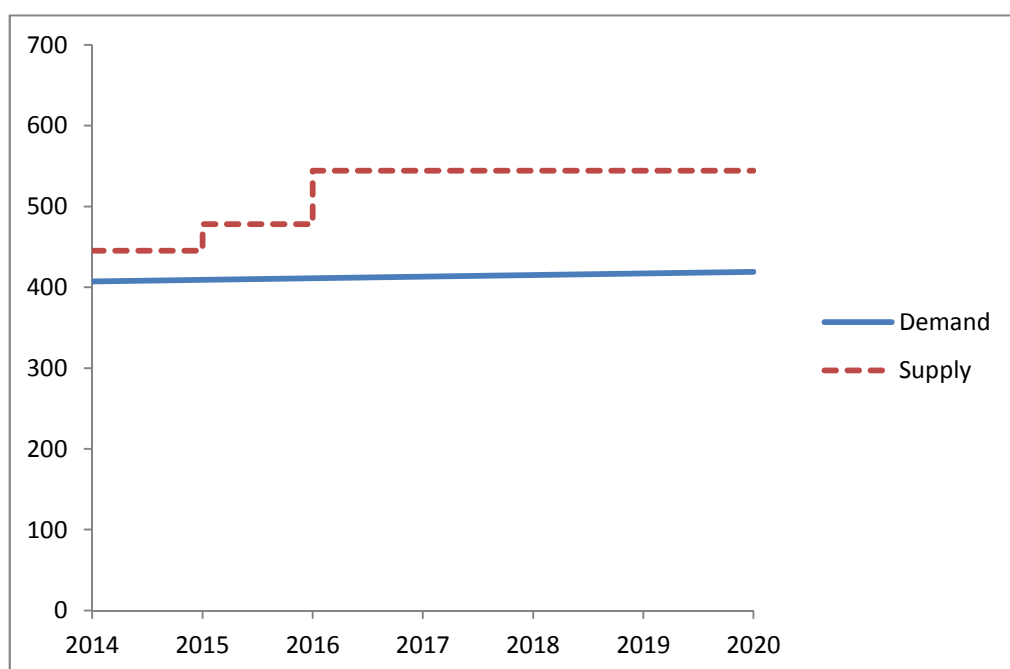
## Background

3. In common with other council areas and the nation as a whole, Central Bedfordshire's population of older people is set to grow much more rapidly than the overall population. This is particularly true of the group of people aged 85 and over.
4. When asked older people consistently say that their preference is to remain living independently in their own home for as long as possible and the Council aims to support this as much as it can.
5. The vast majority of people will continue to live in ordinary housing throughout their lives, supported by informal carers (such as relatives and friends) and 'paid for' carers sourced privately or commissioned by the Council. Additionally, in recent years the Council has developed extra care housing schemes that are able to deliver a high level of flexible care options to support residents as and when they need it.
6. However, even with the provision of extra care housing, for a small proportion of older people the best place in which their needs can be met is in a care home<sup>1</sup> setting. In recent years increased expectations of the facilities in care homes have led to changes in the physical and environmental standards which new care homes need to meet.
7. The Council's response to these twin challenges of an increase in population of older people and rising expectations is necessarily set within the financial constraints within which the public sector operates.
8. In response to the challenges set out above the Council has undertaken the following:
  - a. Increased the availability of home care services in response to increasing demand and the desire by older people to remain in their own homes for as long as possible.
  - b. Developed both domiciliary and residential reablement services that assist older people to regain independent living skills which allow them to remain living at home even after a spell in hospital.
  - c. Commenced the development of extra care housing schemes for independent living in Dunstable (Priory View) and Leighton Buzzard (Greenfields) and is planning deliver a further four schemes of this type over the next six years.

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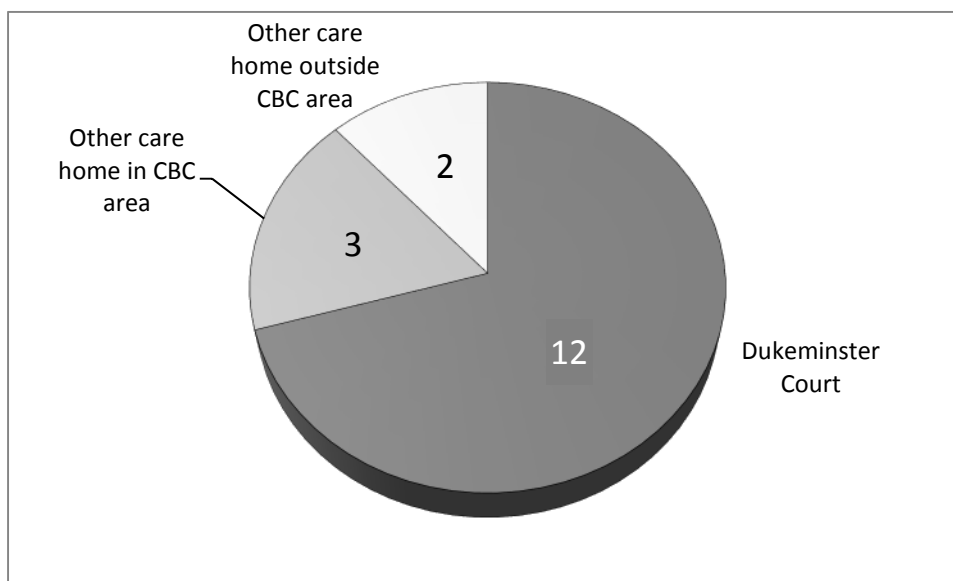
<sup>1</sup> In this report the term 'care home' is used to describe all types of regulated care home for older people. These homes can be divided into those which provide nursing care – which are referred to as 'nursing homes' and those which do not which are referred to as 'residential homes'.

9. The final challenge in this programme is the reconfiguration of care home provision for older people to deliver higher standards. This is the most challenging as such changes inevitably mean a degree of disruption to the lives of residents of the homes affected.
10. The Council owns seven care homes for older people that were constructed by the former Bedfordshire County Council between 1968 and 1982. These homes do not meet physical and environmental standards that modern homes do.
11. In November 2012 the Executive considered a report and approved an overall approach in relation to these homes as part of a wider strategy for managing and contracting with the care home market. This set out the principles of a phased transition away from the homes whilst maintaining existing capacity in the market as a whole. It also set out the approach to stimulate the independent sector market to provide this capacity rather than the Council delivering it directly.
12. Following this the Director of Social Care, Health and Housing held meetings with residents, relatives and staff at the homes setting out the overall approach and indicating the possibility that the homes could be reprovided. This intention was reiterated to residents, relatives and staff when a further round of meetings was held prior to the ending of the contract with BUPA in 2014.
13. Further information underlying the approach is set out in Appendix A.
14. There are two new care homes in Dunstable:
  - a. A 75-place residential care home at Dukeminster Court, Dunstable owned and operated by Quantum Care was opened in April 2015.
  - b. A 66-place residential and nursing care home at The Gateway, London Rd, Dunstable is being developed by LNT Construction. The home, to be called Rosewood Court, is to be owned and operated by Only Care Ltd and is scheduled to open in February 2016.
15. As these are new-build homes they have modern standards of provision including en-suite bathroom facilities for each resident. This is significantly better than the standards of accommodation in the Council's homes, which do not have these facilities.
16. Once both homes are completed the care home capacity in the locality will exceed the forecast demand and it is therefore unlikely that any further new care homes will be constructed in the area in the next five years. The care home demand and capacity in the area over the next five years is illustrated in the chart below.



**Figure 1 Care Home Supply and Demand Forecast for Chiltern Vale**

17. Quantum Care is a 'not for profit' operator based in Hertfordshire. The organisation is part of the Council's framework agreement for residential care homes and in late 2014 agreed to make 26 of its places at Dukeminster Court available to the Council within the rates and terms of the agreement.
18. In February 2015 the Executive considered a report on care home provision in Chiltern Vale and authorised the commencement of a consultation on the future of one of the two homes in that area that the Council owns and operates - Caddington Hall in Markyate. The Executive received a report on the outcome of this process in July 2015 and made the decision that the home should close.
19. The closure of Caddington Hall has necessitated the relocation of the people living there. The outcome of the process and destinations of residents is set out in the Figure 2.
20. As is inevitable in a home providing care for very old and often frail people, deaths occur on a regular basis. At Caddington Hall four residents died between the start of the consultation process on 18<sup>th</sup> February 2015 and decision to close the home on the 7<sup>th</sup> July 2015.



**Figure 2: Destination of Residents Relocating from Caddington Hall**

### **Greenacre Older Persons Home**

21. The second home that the Council has in the Chiltern Vale locality is Greenacre on Brewers Hill Road, Dunstable. The home has capacity for 42 residents.
22. Greenacre has 23 permanent residents and 11 vacancies. It has a further eight places allocated for a short term residential rehabilitation 'step-up step-down' facility. In addition to the residents the home also has a small day care facility, providing for a maximum of eight customers a day.
23. The high level of vacancies has resulted from the home being in 'serious concerns'<sup>2</sup> for three months during 2015, during which time it could not admit new residents.
24. The operator of Rosewood Court has stated that they are able to make 22 of its places there available to the Council for permanent residents within the rates and terms of the framework agreement. In addition, nine of the 26 places the Council has at Dukeminster Court remain available, giving a total of 31 places for permanent residents.
25. The experience of Caddington Hall is that of 21 permanent residents at the start of the consultation process on the future of the home, 12 (57%) transferred to the Dukeminster Court – the new service provision in the local area.

<sup>2</sup> This process involves CQC and the Council where there are concerns about the quality of care being offered by a home. It seeks to address those concerns and restore the quality of care to an acceptable level.

Therefore, if a decision were made to cease the provision of residential care home services at Greenacre then availability of 31 places for residents in the new care homes is considered more than sufficient to provide for those at Greenacre.

26. Whilst Greenacre is not a nursing home, the experience with Caddington Hall (which was also not a nursing home) was that a small number of residents were assessed as having needs that would be best met in a nursing home. This may also be the case with some Greenacre residents, but the intention is that Rosewood Court will offer nursing care and this would therefore be an appropriate option for residents with such needs.
27. In addition, in the Chiltern Vale locality there are ten other residential care and/or nursing homes that provide places to the Council and they currently have 39 vacancies.
28. Therefore the summary of the proposed offer to residents of Greenacre is currently:
  - a. The Council is proposing to close the home and find suitable alternative accommodation for the existing residents.
  - b. Residents will be given a choice of homes to move to within a reasonable distance. These choices would be of homes which offer a good quality of care, modern physical and environmental standards and fee rates that are in line with the Council's fee structure or the host Local Authority rates.
  - c. There will be places available at Rosewood Court and Dukeminster Court to facilitate residents wishing to stay living as a group to do so.
  - d. Any resident who wished to move further away (for example to be closer to a relative) would be assisted to do so.
29. This is set out in more detail in Appendix B.

### **Other Services Delivered from Greenacre**

30. At the same time as the future of Greenacre as a care home for permanent residents is being considered there will also be a need to consider the future of the short term residential rehabilitation 'step-up step-down' facility and the day care facility.
31. The 'step-up step-down' service provides for up to eight people at any one time to have a short term residential care service either as an intermediate step between a hospital stay and returning home or to prevent hospital admission.

The service includes input from health professionals (such as physiotherapists). As a short term service it does not have any ongoing customers and is managed and operated separately from the rest of the home. The service was transferred to Ferndale Older Persons Home in Flitwick on a temporary basis when Greenacre was placed in 'serious concerns'.

32. It is proposed that the options for the delivery of the service are considered over the coming months and decisions are made about its future on a similar timescale to those for the permanent residential service. A consultation process will be undertaken with interested parties, the nature and scope of which will be commensurate with the options being considered.
33. The day care facility at Greenacre is currently used by 19 people who live in the locality. The facility averages eight customers each day. The nearest alternative facility is Houghton Regis Day Centre, which has capacity to accept additional customers.
34. It is proposed that the options for the day care service at Greenacre are investigated and a consultation process is undertaken with users of the service, their relatives and other interested parties alongside the one which takes place in relation to the future of the care home. It is intended that the timetable for this process will be as set out in paragraph 38 below.
35. It is envisaged that, should there be a decision to close the home then users of the day centre would be offered a place at an alternative day service that can meet their needs.

### **Consulting with Residents, Relatives, Staff and Other Stakeholders**

36. The proposals set out require a detailed programme of communication, engagement and consultation. The planned phases of this process and timescales are set out below.
37. An initial series of communications and meetings will be organised with residents, relatives and staff to explain the background to the consultation, the timescales and how they can be involved. It is planned to hold these meetings to coincide with the publication of this report.
38. Following this there will be a consultation period which is planned to commence on 14 October 2015 and end on 13 January 2016. This period is 12 weeks with an additional six working days added to take account of the Christmas and New Year period. The consultation period can be extended if required.

39. During the consultation all those affected will be provided with written details of the proposals along with other options and asked their views. A series of events to do this will take place during the consultation period and will facilitate residents, day care customers and their relatives to input into the process in a way that best suits them. This could be through an individual consultation, as part of a small group, or as part of a larger group. Independent advocacy support will be available for all who need it. Consultation will take place in an atmosphere that aims to provide service-users, their representatives and/or their relatives with support and reassurance.
40. The proposals will also be publicised, published on the Council's website and made available to stakeholders and relevant organisations for their feedback. These would include Dunstable Town Council, Healthwatch Central Bedfordshire, local health services, the Older Person's Reference Group (OPRG) and Age UK. Individual members of the public and other interested parties would also be able to participate.
41. As well as setting out the detail of the Council's preferred option the proposal document will identify other options considered in the development of the proposals and the reasons why they are not preferred. Consultees will also be able propose alternatives and these will be considered.
42. Although not directly affected, residents, relatives and staff at the other homes would be advised about the overarching approach and the progress of the consultation through the existing communications channels, such as regular residents meetings and staff meetings. They will also be able to respond to the proposals.
43. Whilst there would be direct communication with the care home providers that could be in a position to offer places to the residents of Greenacre, there would also be engagement with the wider group of care home providers to advise them of the proposals and seek their feedback.
44. Where possible, questions and options that arise during the consultation period will be responded to before the end of the consultation and made public. Where responses lead to additional options being considered then further feedback will be sought from consultees.
45. During the consultation period the Council will seek to obtain the views of residents (and their representatives and/or relatives) about the proposals and also their own preferences as this will help to focus in on preferred options. However it will be emphasised to service-users (and their representatives) that they are not being asked to make any personal decision about their future during the consultation.



46. All consultation feedback will be collated. Where questions are raised during the consultation period these will be responded to if possible in the time frame. The aim is to be as transparent and responsive as possible so feedback will be made public whilst preserving individual confidentiality.
47. The response to the consultation will be used to compile a report for the Executive with recommendations about the future of Greenacre. This report will be considered by the Social Care Health and Housing Overview and Scrutiny Committee prior to consideration by the Executive. It is envisaged that these meetings would take place in January and February 2016.
48. During the consultation period and until the future of the home has been determined the places at alternative care homes set out in paragraph 24 will be reserved for residents who would be affected by the proposals.

## **Following a Decision about the Future of Greenacre**

### Care Home Residents

49. If the Executive determines that the alternative care offers should be pursued and that Greenacre should close then work would commence with the existing residents, their relatives and advocates to make a decision about their future home. This activity would be supported and managed by the Council and would include the following:
  - a. Social work, Mental Capacity Act 2005<sup>3</sup> and medical assessments of each resident.
  - b. Discussion with each resident, any representative they have, their relatives and any advocate about their preferences.
  - c. Identification of suitable alternative homes, along with information about the homes and number of vacancies.
  - d. Matching of resident's needs and preferences with the choices available.
  - e. Visits to potential alternative homes and/or 'virtual visits'.
  - f. Individual decisions about preferred home.
  - g. Arranging and implementing transfers.

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<sup>3</sup> Assessments under the Mental Capacity Act 2005 would include assessment of mental capacity in relation to the closure of the home and a 'Best Interests' decision where appropriate.

50. Research has shown the importance of conducting the activities above sensitively and at a pace that the residents are comfortable with but without any undue delay.
51. It is envisaged that staff in the home concerned would be available to go with residents to their new home and help them settle in over the course of their first few days there. It may be also possible to make reciprocal arrangements (where staff members from the new home(s) spend time getting to know the residents prior to them moving). This would be explored further depending on the outcome of the consultation and decisions made.
52. If the best practice approach set out above is followed in relation to the consultation, assessment and transfer of residents then it is possible to undertake such changes without detriment or undue distress for those concerned.

#### Day Centre Users

53. A process would also be undertaken with the people who use the Greenacre day service. This would involve the people who use the service, their relatives, carers and advocates in coming to a decision about their future day care. This activity would be supported and managed by the Council and would include the following:
  - a. Social work, Mental Capacity Act 2005<sup>4</sup> and, where necessary, medical assessments of each resident.
  - b. Discussion with each service-user, any representative they have, their relatives and any advocate about their preferences.
  - c. Identification of suitable alternative services, along with information about the services and number of vacancies.
  - d. Matching of user's needs and preferences with the choices available.
  - e. Visits to potential alternative services.
  - f. Individual decisions about their preferred service.
  - g. Arranging and implementing transfers.

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<sup>4</sup> Assessments under the Mental Capacity Act 2005 would include assessment of mental capacity in relation to the changes being planned for the service and a 'Best Interests' decision where appropriate.

### Users of the Step-Up/Step-Down service

54. The 'Step-Up/Step-Down' service does not have any ongoing or regular users and therefore no process of engagement with individual users of the service is proposed.

### **Reason/s for Decision**

55. To ensure that prior to making a decision about the future of the home, the Executive will have as much information as possible about the options available and the views of interested parties.

### **Council Priorities**

56. The actions proposed in this report support the Council's priority to promote health and well being and protect the vulnerable.

### **Corporate Implications**

57. Whilst the welfare of the residents of the home and users of the day service is the Council's highest priority, it will also be important to have regard to the needs of the staff who will be affected by these proposals.
58. At the point where formal consultation commences with staff and their representatives the Council will state its understanding of the position with regard to TUPE and the consequences for the staff affected.

### **Legal Implications**

59. If the recommendations in this report are approved, it is important that the consultation complies with government guidance and case law otherwise the Council is at risk of successful challenge through the complaints procedure, by way of judicial review or other challenge.
60. The Council must ensure that the Care Act 2014 is considered (where appropriate) and adhered to when making decisions relating to the provision of care.
61. The Council will need to consider employment law issues, including TUPE, in respect of staff at the homes.
62. If residents are to move, then the Council will need to ensure that it complies with the relevant law relating to the making of decisions in respect of individual residents and that the appropriate deprivation of liberty safeguards are in place.

## **Financial Implications**

63. There are no financial implications arising from the decision to commence consultation. The costs associated with this process will be met from existing budgets. The financial issues arising from the outcome of the consultation and recommendation(s) will be addressed in a future report.

## **Equalities Implications**

64. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act 2010 requires public bodies to:
- a. Remove or minimise disadvantages suffered by people.
  - b. Take steps to meet the needs of people from protected groups.
  - c. Encourage people to participate in public life or other activities where participation is low.
65. Public bodies must be able to demonstrate that consideration of this legal duty has been engaged during all stages of the decision making process from beginning to end and that decision makers are aware of their legal obligations. Decision making must be exercised “in substance, with rigour and with an open mind.”
66. In coming to a decision the Council will undertake an equality impact assessment and will demonstrate consideration of:
- a. a well researched business case relating to the proposal, including appropriate financial and statistical analysis.
  - b. the range of possible options that have been investigated.
  - c. the findings of consultation (group and individual) with residents (including advocates where necessary), their relatives and other stakeholders. The consultation process will highlight the Council’s preferred option and will outline alternative options that have been considered.
  - d. the findings of previous individual care assessments considering impairments, support needs and cultural / social requirements.
  - e. adverse impacts and ways in which these can be mitigated or minimized.

67. The above findings will all be reported accurately to decision makers.
68. Case law relating to requirements of the Human Rights Act 1998 ('the 1998 Act') indicates that before taking a decision to close a care home, the effect on the residents must be investigated. A public body must ensure that any consultation investigates the potential effect of the closure on the residents' emotional, psychological and physical health and must comply with its obligations under the 1998 Act.
69. It should also be borne in mind that that a decision which potentially restricts a human right does not necessarily mean that it will be incompatible with the 1998 Act. Public bodies also need to take into account other general interests of the community. Some rights can therefore be restricted where it is necessary and proportionate to do so in order to achieve a legitimate aim. Provided a restriction of such a right has a legitimate aim and the restriction itself does not go any further than necessary to protect this aim, then it is likely that it will be compatible with the 1998 Act. In this way the 1998 Act recognises that there are certain situations where a public body is allowed to restrict individual rights in the best interests of the wider community.

## **Appendices**

- Appendix A: Background Information on Care Homes for Older People in Central Bedfordshire
- Appendix B: The offer to existing care home residents when closure is proposed.

## **Background Papers**

None