

Central Bedfordshire Council

EXECUTIVE - 10 February 2015

IMPROVING CARE HOMES FOR OLDER PEOPLE IN CENTRAL BEDFORDSHIRE

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

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

This report relates to a Key Decision

Purpose of this report

1. For the Executive to consider the opportunity in Dunstable to 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 improve care home provision for older people in the Dunstable by authorising the commencement of formal consultation on proposals for the future of the home as set out in paragraphs 26 to 36 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 Caddington Hall.**

Overview and Scrutiny Comments

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

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 home¹ 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.

¹ 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. In November 2012 the Executive considered a report and approved an overall approach in relation to the Council's 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.
11. 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.
12. Further information underlying the approach is set out in Appendix A.

Care homes provision in the Dunstable area (Chiltern Vale locality)

13. Two new care homes are currently under construction in Dunstable:
 - a. A 75-place home at Dukeminster Court, Dunstable to be owned and operated by Quantum Care is nearing completion and is due to open in early March 2015.
 - b. A 66-place home at The Gateway, London Rd, Dunstable is being developed by LNT Construction. An operator for the building has yet to be agreed by the developer and current indications are that the home will open in February or March 2016.
14. As these are new build homes they will comply with expected standards of provision. These mandate minimum room sizes, en suite bathroom facilities and sufficient communal space per resident. This is significantly better than the standards of accommodation in the Council's homes, which were all built prior to the introduction of the current regulations.
15. Once these homes are completed the care home capacity in the locality will meet 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.

16. 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 during informal discussions has indicated that it would be prepared to make up to 26 of its places at Dukeminster Court available to the Council within the rates and terms of the agreement.
17. LNT Construction is part of a commercial group that both develops and operates care homes. Based in Yorkshire it operates 39 homes under the trading name of Ideal Care Homes and is currently constructing five homes at various locations in England.
18. The Council has two homes serving Chiltern Vale – Caddington Hall in Markyate, Hertfordshire, close to the Central Bedfordshire border and Greenacre in Brewers Hill Rd, Dunstable. Both homes have capacity for 42 residents.
19. In the Chiltern Vale locality there are nine other care homes that provide places to the Council and they currently have 30 vacancies.
20. Caddington Hall has 20 of its 42 places vacant. The reduction in occupancy occurred when the home was subject to the 'serious concerns'² process and was unable to admit new residents. This process has now been concluded but it remains with a high level of vacancies. A significant factor in this is the home's isolated location as this makes it a difficult place for relatives to get to by public transport.
21. Greenacre has three vacancies. It has 31 permanent residents and also has eight places allocated for a short term residential rehabilitation 'step-up step-down' facility. The home also has a small day care facility, providing for a maximum of 8 customers a day.
22. The imminent opening of Dukeminster Court provides an opportunity to enhance the care home provision through the closure of one of the two homes. The uncertainty around the timescale and operator for the home at The Gateway indicates that it would not be appropriate to place reliance on this being a solution at this time but that this is considered further at the point where an operator is known and opening is imminent.
23. Whilst Greenacre is located closer to Dukeminster Court than Caddington Hall a number of factors would indicate that Dukeminster Court could be a viable and attractive alternative option for current Caddington Hall residents and those who will be seeking a place in a care home in the future. These factors are:

² 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.

- a. Caddington Hall has a large number of vacancies and therefore all of the residents there could choose to go to Dukeminster Court. This would not be the case for Greenacre which has 32 permanent residents.
 - b. The physical condition of Caddington Hall is such that it is the one that is in most need of investment if its operational life is to be extended.
 - c. Greenacre has the 'Step Up Step Down' residential reablement service and day centre facility which would need to be reviewed and their future determined.
 - d. The majority of the current residents at Caddington Hall previously lived in Dunstable and have relatives there. Future demand for care home places is likely also to originate from the populations of Dunstable and Houghton Regis. It would therefore result in care home facilities being better located overall – near to relatives and accessible via public transport.
24. Notwithstanding the availability of places at Dukeminster Court and elsewhere in Chiltern Vale, residents having a choice of homes within a reasonable distance means that, in the case of Caddington Hall, homes within Hertfordshire and Luton may be options. Council officers will therefore liaise with local providers of care homes and also with their counterparts in Luton and Hertfordshire to establish which homes would be in a position to offer places that fulfil the Council's criteria.
25. Therefore the summary of the proposed offer to residents of Caddington Hall is:
- 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. One of the options available to all residents would be to move to Dukeminster Court so any of them wishing to stay as a group could 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.

This is set out in more detail in Appendix B.

Consulting with residents, relatives, staff and other stakeholders

26. The proposals set out require a detailed programme of communication, engagement and consultation. The phases of this process and timescales are likely to be as set out below.
27. An initial series of 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.
28. Following this there will be a 12-week consultation period which is planned to commence on 18 February 2015 and end on 12 May 2015. During this period 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 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 residents, their representatives and/or their relatives with support and reassurance.
29. 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 the Older Person's Reference Group (OPRG) and Age UK. Individual members of the public would also be able to comment on the proposals.
30. 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.
31. 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.
32. Whilst there would be direct communication with the care home providers that could be in a position to offer places to the residents of Caddington Hall, there would also be engagement with the wider group of care home providers to advise them of the proposals and seek their feedback.

33. Where possible questions and options that arise during the consultation period will be responded to during the period and further feedback sought.
34. 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 residents (and their representatives) that they are not being asked to make any personal decision about their future during the consultation.
35. 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.
36. The response to the consultation will be used to compile a report for the Executive with recommendations about the future of the home. 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 June 2015.
37. If the Executive determines that the alternative care offers should be pursued and that a home 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 and medical assessment 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.

38. 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.
39. 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.
40. 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.

Reason/s for decision

41. 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

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

Corporate Implications

43. Whilst the welfare of the residents of the homes 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.
44. 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

45. If the recommendations in this report are approved, it is imperative that the consultation complies with government guidance and case law otherwise the Council is at risk of challenge through the complaints procedure, by way of judicial review or other challenge.
46. 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 after 1st April 2015.

47. The Council will need to consider employment law issues, including TUPE, in respect of staff at the homes.
48. 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

49. 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

50. 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 Act 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.
51. 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.”
52. 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.

- 53. The above findings will all be reported accurately to decision makers.
- 54. Case law relating to requirements of the Human Rights 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 Human Rights Act 1998.
- 55. 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 Human Rights Act 1998. 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 Act. In this way the 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

The following background papers, not previously available to the public, were taken into account and are available on the Council's website:

- a. Supply and demand gap analysis for Care Homes and Extra Care in the wider context of older people's accommodation and care.