

Central Bedfordshire Council

SOCIAL CARE, HEALTH & HOUSING OVERVIEW & SCRUTINY COMMITTEE
19th March 2018

The Future of Westlands Older Persons Home, Leighton Buzzard

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

Responsible Director(s): Julie Ogley, Director of Social Care, Health and Housing, (julie.ogley@centralbedfordshire.gov.uk)

This report relates to a decision that is Key

Purpose of this report

1. To consider the outcome of the consultation into the future of Westlands Older Persons Home (OPH) and make recommendations to a future meeting of the Executive.

RECOMMENDATIONS

The Committee is asked to:

1. **Consider the outcome of the consultation into the future of Westlands Older Persons Home.**
2. **Provide its views and recommendations which will be communicated to the Executive before it makes a decision on the future of Westlands Older Persons Home.**

Background

2. Westlands OPH is a 30-place care home situated in Duncombe Drive, Leighton Buzzard. It provides long term and short-term care for older people including those with dementia. At its most recent inspection (published in August 2017) the home was rated overall as 'Good' by the Care Quality Commission (CQC).
3. Westlands is one of seven care homes for older people owned by Central Bedfordshire Council. The Council's intention for all of those homes is that the capacity in them is replaced by capacity in new care homes nearby that offer the more up to date facilities that older people

have a right to expect.

4. To date the capacity in three of the seven homes has been reprovided with the future of four homes remaining to be decided, of which one is Westlands.
5. In order to facilitate the delivery of replacement care home capacity, the Council acquired the site of the former magistrates court and police station at Hockliffe Road, Leighton Buzzard when it was made available for disposal by Bedfordshire Constabulary. The Council subsequently obtained outline planning consent for a 68-place care home on the site and is now in the process of selecting a care home provider to construct and operate a home. The target date a home to be operational is 31st March 2020.
6. Westlands OPH is on a site adjacent to a day centre for older people – Westlands Day Centre. The two buildings were constructed at the same time during the 1970's and are understood to share some utilities connections. The future of the service operated from Westlands Day Centre will be considered as part of the programme to deliver the new Day Offer over the next three years. This process will include full engagement and consultation with the people who use the centre and their carers.
7. The new Day Offer envisages that in the future many day services will be provided in an integrated way alongside other uses including older persons homes. For this reason, the specification for the home at Hockliffe Road includes the option to have space for day care facilities.
8. At its meeting on 1st August 2017 the Executive approved the following actions in relation to the future of Westland OPH:
 - a. To undertake a formal consultation on proposals for the future of Westlands OPH.
 - b. To commence a procurement process to identify a preferred provider for a care home on the Hockliffe Road site.
 - c. To submit a report to a future meeting of the Executive advising of the outcome of the consultation and procurement processes and making recommendations about the future of the home and a preferred provider.
9. This report focusses on the consultation about the future of the home but also contains information about the progress of the procurement and how it is proposed that the two matters are considered by the Executive before making a final decision.

Consultation Process on the Future of Westlands OPH

10. The consultation process lasted for 12 weeks, from 14th August 2017 6th November 2017.

11. Consultees were asked for their views on six options. These were:
 - a. Doing nothing – continue to run Westlands in its present form.
 - a. Facilitate the construction of a new home in the area, relocating existing residents to new homes and closing Westlands – the Council's preferred option.
 - b. Transferring Westlands to another organisation to run as a going concern.
 - c. Building a new home on Westlands site – moving residents to alternative homes, demolishing the old home and building a new one.
 - d. Running the home down – stopping new admissions to the home but keeping it open for an agreed period of time or until it had no residents.
 - e. Refurbishing the home so that it meets modern standards.
12. Consultees were also given the opportunity to identify other options and put forward proposals.
13. The Council set out in the consultation the offer to residents of alternative accommodation should the home close. This is:
 - a. Residents would be accommodated in a home that offers a good quality of care.
 - b. Residents would be offered alternative accommodation in a home that meets modern physical and environmental standards and customer expectations.
 - c. Residents would be accommodated in a home that can meet their assessed eligible care and support needs.
 - d. Where residents choose to leave Central Bedfordshire to be closer to relatives or friends the Council would facilitate this.
 - e. Residents would be accommodated in a home that is a reasonable distance from their current home.
 - f. Residents who expressed the wish to move as a group would be accommodated where possible.
 - g. Residents would not be required to move more than once.
14. In conjunction with the core offer set out above, resident's individual wishes, and circumstances would be further taken into account where at all possible. Examples of this would include:
 - a. Where a resident wished to move to a different location to be close to a relative.
 - b. Where a resident wished to move to another type of accommodation
15. In order to be able to honour the offer set out in the consultation the Council's intention is to secure sufficient places at the care home in Hockliffe Road to be able to offer all of the permanent residents at

Westlands a place there (subject to the home being able to meet their care needs).

16. The consultation documents in relation to the future of Westlands are set out in Appendices A, B and C.
17. In order to ensure that the people most affected by any changes were involved in the consultation process, the following activities were undertaken during the consultation period:
 - a. Before it commenced, meetings were held for residents, relatives and staff advising them of the proposals and explaining about the consultation period.
 - b. Relatives and residents were offered 'one-to-one' meetings with members of the consultation team to discuss the options.
 - c. Residents, relatives and other stakeholders were provided with regular updates about the progress of the consultation and what was planned to take place.
 - d. Staff were offered 'one-to-one' meetings with members of the consultation team to discuss the options.
18. Particular attention was given to supporting residents to be involved in the consultation process even though some lacked mental capacity to fully understand the Council's proposals. The ability of all residents to participate in the consultation was assessed by a social worker, undertaking an assessment in accordance with the principles of the Mental Capacity Act 2005.
19. The assessments undertaken during the course of the consultation period showed that nine residents had capacity to take part in the consultation and were assisted to do so. Five residents were assessed not to have capacity to participate meaningfully in the consultation, however of those two could give their view to a limited extent. Two residents were not consulted as the view of the assessor and the residents' families was that consultation was not in the best interests of their relative, due to the potential for upset and confusion that could arise from the process.
20. All residents had friends or relatives who were able to support them in participating in the consultation or contribute on their behalf.
21. During the consultation period, a mid-point document was published that set out the most common questions asked during the process so far with answers. This document appears as Appendix D.
22. A total of 25 full responses were received to the consultation. In addition, information from meetings with residents and relatives was captured and incorporated into the consultation report. These are set out in full in Appendix E and the key issues raised are discussed in the next section.

Main Issues Raised in the Consultation

23. The main issues raised during the consultation are set out below:
- a. The idea of refurbishing or rebuilding Westlands on the same site.
 - b. The suitability of the Hockliffe Road site for a care home.
 - c. The quality of care that would be offered by an independent care provider.
 - d. The cost of care in any replacement home.
 - e. The need to focus on good quality care rather than physical facilities.
 - f. The reason for the long timescale and the belief that a decision had already been made.
 - g. The impact of moving on current residents.
 - h. Providing support for residents and staff at Westlands following a decision about its future.
24. The idea of refurbishing or rebuilding Westlands on the same site: These options were discussed in the consultation document along with the reasons why they were not felt to be the best ones: refurbishing the home would still result in a home that was small by modern standards and would lack some important facilities. Rebuilding on site would be feasible but would require the home to close resulting in disruption to residents and we could not guarantee that they could be accommodated at homes nearby or with their friends during the construction period.
25. The suitability of the Hockliffe Road site for a care home compared with Westlands in terms of its outlook and location: The outlook to the rear of Westlands over the Recreation Ground provides residents with views of trees and, whilst there will be landscaped gardens at the home in Hockliffe Rd, it will lack this type of view. The Hockliffe Rd site is in a largely residential area with mainly Victorian terraced properties whereas Westlands is part of the town centre development of more municipal buildings such as the Fire Station and former telephone exchange. The site in Hockliffe Rd allows for a similar level of easy access to the town centre of Leighton Buzzard as is achieved at Westlands. On balance it is considered that the benefit of improved facilities on the Hockliffe Rd site would significantly outweigh the dis-benefit of the less attractive view.
26. Should there be a decision to close Westlands then residents would have a choice about where they moved to. Whilst there would be enough places at the Hockliffe Rd home for those who wanted to go there if someone, for example, wanted to be in a home which had views of trees and the countryside then we would try to arrange this. There are several homes in the Leighton Buzzard area that are in more rural locations.

27. The quality of care that would be offered by an independent care provider: There is no evidence to support the view that in general independently-run homes have lower quality of care than council-run ones. The Council works with all local providers to monitor and, where necessary, seek improvements in the quality of care. All care homes are subject to the same national inspection regime.
28. In addition, in seeking a provider to build and run a new home in Hockliffe Rd the Council will only consider bids from experienced providers that have a strong track record in delivering good quality care.
29. The cost of care in any replacement home: Most independent care homes in Central Bedfordshire provide places to people who are placed by the Council and to people who arrange and pay for their own place. Part of the requirements for the care home provider of the Hockliffe Rd is that the fees for anyone moving from Westlands would be at the normal Council rates.
30. The need to focus on good quality care rather than physical facilities: The Council believes that residents in care homes should be entitled to both good quality care and good quality facilities. The aim of this initiative is to maintain or improve the quality of care for residents whilst significantly improving the quality of the accommodation.
31. The reason for the long timescale and the belief that a decision had already been made: It was an option to delay a decision on the future of Westlands until the Hockliffe Rd home was nearing completion but it was considered that this would be less satisfactory solution as it could be argued that the Council had effectively made a decision about the future of Westlands already and that a consultation was 'just going through the motions'. A consequence of the approach that has been adopted is that, if a decision is made that Westlands will close when the new home opens, the Council will need to keep in close contact with residents and relatives during the intervening period.
32. The impact of moving on current residents: The Council has a team of staff that has developed considerable experience and expertise in arranging and managing moves when it is decided that a care home will close. The experience of doing this is that with careful and sensitive management a move can be positive for residents.
33. Support for Westlands following a decision about its future: We agree that support will be required for residents, relatives and staff in the home. Following any decision, the Council will set out clearly how we propose to communicate with and support all those people affected.
34. The Council has commissioned a video which explains how it works with residents and relatives when a decision has been made about the future of a care home. This is available at: <https://youtu.be/rthz--ctWw>.

Procurement of a new Care Home at Hockliffe Road

35. The Council's approach to the provision of a new home to replace the capacity at Westlands has been to acquire the site of the former

magistrates' court and (more recently) police station in Hockliffe Road, Leighton Buzzard and to offer this site to the care provider market to develop and operate a care home for older people there.

36. The conditions which will attach to any sale will require the provider to develop the site for a care home and to offer the Council up to 30 places at that home at its standard rates. The target date for the new home to open is 31st March 2020.
37. In offering the site in this way the Council is required to follow the same rules as it does when it undertakes a high value procurement. The procurement process was formally launched on 16th February 2018 and the final date for receipt of bids is 27th April 2018.
38. Whilst price is a significant factor in the evaluation of the bids, the track record of the provider in providing good quality care for residents and in working with local authorities will also be taken into account.
39. It is expected that the outcome of the bids will be reported to the meeting of the Executive scheduled for June 2018 alongside the outcome of the consultation on the future of Westlands OPH and the views of this committee.

Council Priorities

40. This activity supports the Council's priorities to protect the vulnerable, and to become a more efficient and responsive Council.

Corporate Implications

41. No implications other than those set out in the sections below have been identified.

Legal Implications

42. Where a Council is contemplating changes to care and support services it has a public law duty to consult with those who would be affected and there is clear guidance and precedent about how consultation should be conducted and the part they would play in future decision-making. 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.
43. 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.
44. The Council has a duty under the Human Rights Act 1998 to ensure that its actions are not incompatible with the Rights under the European Convention on Human Rights, 'The Convention'. The Council will therefore need to consider whether the proposed move to a new home is likely to breach any of the service user's rights under Articles 8, 3,

- and 2. If the decision is likely to breach the Convention, the Council will need to explore any particular facts and determine if such a breach is proportionate and justified.
45. The Council will need to consider employment law issues, including TUPE, in respect of staff at the home.
 46. 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.
 47. In contracting with an operator for the delivery of a replacement the Council will need to follow the law in relation to Procurement as set out in the Public Contract Regulations 2015.

Financial Implications

48. There are no financial implications arising from this report. The financial issues arising from the outcome of the consultation and recommendation(s) will be addressed in the report to the Executive prior to a decision being made on the future of the home.

Equalities Implications

49. 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.
50. 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.”
51. In coming to a decision, the Council will consider an equality impact assessment which is currently being prepared. The assessment will demonstrate consideration of:

- d. a well-researched business case relating to the proposal, including appropriate financial and statistical analysis.
 - e. the range of possible options that have been investigated.
 - f. 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.
 - g. the findings of previous individual care assessments considering impairments, support needs and cultural / social requirements.
 - h. adverse impacts and ways in which these can be mitigated or minimized.
52. The above findings will all be reported accurately to decision makers at the meeting of Executive which will make a decision about the future of the home.
53. 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.
54. 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.

Conclusion and next Steps

55. The Committee is asked to consider the outcome of the consultation and to make recommendations which will be incorporated into a report to a future meeting of the Executive.

Appendices

- Appendix A: Have Your Say on the Future of Westlands**
Appendix B: Options Considered for the Future of Westlands

Appendix C: Westlands Consultation Questionnaire
Appendix D: Westlands Consultation Mid-Point Update
Appendix E: Consultation Report on the Future of Westlands

Background Papers

None

Report author(s): Tim Hoyle MANOP Head of Service
tim.hoyle@centralbedfordshire.gov.uk