

## **CABINET**

**1 NOVEMBER 2011**

### **SHALDER HOUSE**

Portfolio Holder: Councillor David Brake, Adult Services

Report from: David Quirke-Thornton, Assistant Director, Adult Services

Author: Genette Laws, Social Care Commissioning and Voluntary Manager

#### **Summary**

The purpose of this report is to seek agreement from Cabinet to consult about the future of Shalder House.

The Council owns Shalder House. It is currently used as a rehabilitation facility for people that have complex issues that primarily relate to vulnerabilities in terms of complex social or housing needs rather than social care needs.

This paper sets out the reasons, and the timetable, for undertaking consultation and engagement about the proposal.

#### **1. Budget and Policy Framework**

- 1.1 The Council has a range of statutory duties and powers to provide services to vulnerable adults such as older people, people with learning disabilities, physically disabled people, people with mental health problems, drug and alcohol misusers and carers. Duties and powers are contained within the National Assistance Act 1948, the Chronically Sick and Disabled Persons Act 1970, the NHS and Community Care Act 1990, the Mental Health Act 1983 together with other statutes and regulations. Local authorities can provide or commission services in a variety of ways to meet the needs of those it assesses as eligible for services. Indeed the personalisation agenda encourages moves away from direct provision by local authorities to personal budgets allowing service users the choice to purchase services from a range of providers.

## **2. Background**

- 2.1 A best value report was submitted to the Assistant Director for Adult Services regarding Shalder House for consideration in May 2010. This facility is not cost effective in terms of meeting the needs of those that are supported at Shalder House. The lack of cost effectiveness is primarily relates to the staff/service user ratio, where there are 13 members of staff working in the service and the maximum capacity of the service is 11 people. The occupancy rate of the service during the last financial year achieves about 70% on average.
- 2.2 A recent inspection, in early 2011, by the Care Quality Commission raised minor concerns about the fabric of the building. This follows a report to Overview and Scrutiny in June 2006 to explain that the building did not meet the Decent Homes Standards required by 2010.

## **3. Options**

- 3.1 The consultation will look at the three options for the future of the service with all stakeholders including existing service users and the agencies that refer into the service.
- 3.1.1 **Decommission Shalder House and provide the service in a different way**  
The advice and analysis in this report supports this option as the preferred option.
- 3.1.2 **Continue using Shalder House and not improve the fabric of the building**  
Given the contents of the recent Care Quality Commission inspection report, this is not a sustainable solution.
- 3.1.3 **Continue using Shalder House and make a substantial capital investment improve the fabric of the building**  
Given the number of people that would benefit from this investment in comparison wider benefits of disposing of the site, this option is neither cost effective nor supportive of the council's ambition to regenerate Medway.

## **4. Advice and analysis**

- 4.1 As at the 21 October, there were 5 people receiving a service Shalder House. There are currently 13 employees delivering the service. Over the last 12 months 38 people received a service and their average length of stay was 49 days (7 weeks).
- 4.2 Officers suggest that we do not place any new residents in Shalder House during this consultation period as this will avoid unnecessary disruption and uncertainty to new service users. There are alternative services available such as Platters Farm which can support people during the period of consultation.

- 4.3 Officers consider that there are more cost-effective ways to provide the service that better meets the needs of the service users. Officers will work with sheltered housing providers to develop a model of support to residents which would include a wrap-around care package being put in place to ensure their needs are met. This would mean that service users are gradually moved back into independent living within their community.
- 4.4 Where a significant change occurs in relation to a service to the public, consultation is always required. Consultation is an opportunity to explain the reasoning for the proposals and to obtain the views of stakeholders as to existing services and proposals and to give others the opportunity to put forward options on how to reshape the service. Even if the Council are able to demonstrate cogent reasons for the proposals (e.g. as set out in paragraph 2.4) the council must also mitigate against any unintended or consequential impact that the changes may cause. The Council mechanism for considering these impacts is an impact assessment, into which the Council will feed any information it has regarding equalities, including information gathered through engagement with stakeholders. The Cabinet, as decision makers, will consider all that information and assessment when making decisions regarding these services.
- 4.5 The proposals will affect current users and staff and therefore consultation is proposed. The outcome of the consultation and engagement will inform the approach to decommissioning the service.
- 4.6 It is proposed to consult with the service users and staff for a thirty day period. This takes into account the extremely low number (5) of users, and that this consultation will take place on an individual basis. We have also taken into account the status/tenure of the service users, ie the service is not their permanent home.
- 4.7 Consultation with staff will also be carried out for a thirty day period, as set out in paragraph 6.2.
- 4.8 In June 2006 a report to Overview and Scrutiny confirmed that *“The Sheltered Schemes at Fitzhorold House, Queens Court and Shalder House will not meet the Decent Homes Standard by 2010 and the investment required to bring these up to modern standard is estimated at £10million.”*
- 4.9 The Overview and Scrutiny report goes on to recommend that the future development of the site should be for sheltered housing or extra care. Since that report was written a number of housing developments have taken place which means that the future use of the site does not necessarily have to be limited to the proposed uses as there is adequate provision planned in this area. As of this year, there are about 200 units of Extracare planned for development and 60 of those units will be available for occupancy in spring 2012 in Gillingham.

- 4.10 In January 2011, the Care Quality Commission (CQC) undertook a 'Review of Compliance' at Shalder House. The review looked at 21 outcomes that focus on the quality of the care and the environment in which the care is delivered.

The report included the following finding:

“For one of the essential standards [Outcome 10: Safety and Suitability of Premises], although compliant, we believe there is a risk that they [Medway Council] will not *maintain* compliance with this outcome. We [Care Quality Commission] have noted that we have minor concerns that they may not be able to sustain compliance in this area and have set an *improvement action* upon the provider for this area.”

## 5. Risk management

Risk	Description	Action to avoid or mitigate risk
Complaints/ litigation from employees	Some employees may transfer their anxiety about future job prospects by encouraging service users or the wider community to campaign against the decision.	Clear communication that redundancies will be minimised by redeploying employees to appropriate alternative positions.
Not ensuring that successor arrangements meet the needs of future individuals with similar circumstances	Future people in need may not get the help they need.	<p>Adult Social Care (ASC) is working with colleagues to agree a multi-agency protocol for Medway that relates to people with complex social needs that do not necessarily fit into the 'neat' criteria of each agency.</p> <p>ASC is also working with housing colleagues to manage resources more effectively in terms of managing voids to meet the gaps in the market for vulnerable adults.</p>

## 6. Consultation

- 6.1 The Council's requirements in relation to consultation are set out below in paragraphs 4.4 and 7.1.
- 6.2 Consultation is timetabled for a 30 day period. There are 5 residents to be consulted, and we would also intend to consult MCH, who manage the Rapid Response Team that make referrals into the service.

6.3 An initial diversity impact assessment screening has been completed in terms of the impact of this decision, see appendix one. The screening will be further informed by the consultation that takes place.

## **7. Legal, financial, property and HR implications**

### **7.1 Legal**

7.1.1 When considering making changes to service provision, the decision maker needs to comply with its obligations as to equalities under the Equality Act 2010. In essence this requires decision makers to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Protected characteristics, as defined in the 2010 Act, are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.1.2 Having due regard to the above needs involves

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

7.1.3 In order to comply with its equality duties, the Council is required to engage with service users, representative groups, staff and unions and to use the information and views gathered as a result of such engagement (together with other equality information the local authority has) in assessing the equality impact of the proposals.

7.1.4 Where any consultation is undertaken it must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.

7.1.5 Where the Council intends to dispose of any property (either by way of sale of the freehold or by way of a lease of more than 7 years) it is under a duty to obtain best consideration unless the consent of the Secretary of State is given or a general consent applies. There is a general consent for disposal at an undervalue of up to £2 million where the purpose of the disposal is likely to improve or promote the

economic, environment or social wellbeing of the area of the inhabitants of the area.

7.1.6 The Council also needs to taken into account the human rights of residents under the Human Rights Act 1998. The human rights relevant under the Human Rights Act 1998 are those set out in Article 8, the First Protocol, Article 1 of the European Convention on Human Rights.

7.1.7 Article 8 states as follows:

- (1) *Everyone has the right to respect for his private and family life, his home and his correspondence.*
- (2) *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

7.1.8 Article 1 of the First Protocol states as follows:

- (1) *Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*
- (2) *The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*
- (3) *In making a final decision Cabinet will need to take in to account any issues raised by residents including any alternative options put forward, and ensure that the agreed action is proportionate to the aims pursued by the Council.*

## 7.2 Financial

7.2.1 The direct costs/revenue budget for Shalder House is £412,964 per annum. The costs of making alternate provision can be contained within existing budgets and deliver efficiencies.

## 7.3 Property

7.3.1 As the value of the property is over £100,000 but below £1,000,000 the disposal is a matter for Cabinet.

- 7.3.2 The Council owns the freehold of the site.
- 7.3.3 This site was originally used as a block of sheltered accommodation units but is now used as a 'safe haven' facility for people with complex social needs. The service supports ten plus one and as at 14 October is supporting 5 service users.
- 7.3.4 The accommodation is no longer fit for its original purpose of sheltered accommodation, as it does not meet the Decent homes Standard. Also the property is not fit for its current use as a result of its layout.
- 7.3.5 In addition to this, the demand for the bed-sit type of unit, which is provided at Shalder House is low. This is in part because the council is securing purpose built Extra Care accommodation, which will reduce the need for residential care and sheltered accommodation.
- 7.3.6 Shalder House is currently held as part of the Housing revenue Account and therefore any disposal of it must comply with s32 of the Housing Act 1985. A disposal of this property requires the consent of the Secretary of State under this section. The Secretary of State has given a general consent for disposals in certain circumstances (The General Housing Consents 2005). Whether the disposal falls within the terms of any general consent or whether it will require specific consent will depend upon the identity of the prospective purchaser and the exact terms of the disposal, therefore it is best if the council obtains a specific consent.
- 7.3.7 Under current financial rules on capital receipts pooling, the council is required to pass 50% of the proceeds from the sale of non-right to buy Housing Revenue Account assets to the government unless the value of the receipt is less than or equal to what is known as the notional Capital Allowance. After pooling, capital receipts can be used for any kind of capital expenditure and are not time limited.
- 7.3.8 The Capital Allowance scheme allows local authorities to add to a notional 'pot' for specified types of capital expenditure, those being on affordable housing and regeneration. The value of the pot may be drawn upon to reduce certain capital receipts before calculating the poolable amount. The Capital Allowance 'pot' falls each time it is applied to reduce a receipt. At 31 March 2010 the balance of the 'pot' stood at just over £9.4 million and clearly this will exceed the value of the receipt from the sale of Shalder House and therefore the total value received will be available to the council. Officers will aim to maximise retention of tall HRA capital receipts under the Capital Allowance scheme.

## **7.4 Human resources**

- 7.4.1 Any reorganisation of services will have an impact on employees. .  
Where a service is closed without being transferred to a new provider there is a possibility that the staff will be redundant. The Council would always seek to minimise redundancies where possible by use of redeployment of employees.
- 7.4.2 The Council must ensure that the process for any proposed redundancies complies with the required statutory obligations to inform and consult employees both collectively and individually under Section 188 of The Trade Union and Labour Relations (Consolidation) Act 1992. The Council is also under a duty to inform the Secretary of State under Section 193 of the above Act about proposed redundancies. In addition, the process adopted with regard to potential redundancies must be in accordance with the Council's redundancy procedure and comply with the general principles of fairness to minimise the risk of successful unfair dismissal claims. Due to the number of staff involved in providing the service (13) and that the business is a service entity, then the timescale for consultation will be thirty days and will run concurrently with the consultation for service users.

## **8. Recommendations**

- 8.1 That Cabinet agrees that officers can commence a consultation process with service users, staff and stakeholders in respect of the proposed closure of Shalder House and report the outcome to Cabinet on 20 December 2011.

## **9. Suggested reasons for decisions**

- 9.1 Officers consider that the proposals are desirable because of the reasons set out in the advice and analysis section. Shalder House is a service that supports people that have complex and challenging social and housing needs. The building is not fit for purpose as a sheltered housing scheme and therefore the decommissioning of the service will enable innovative and more cost effective approaches to delivering support to individuals that may need low level support to receive a tailored service.
- 9.2 During the service's last inspection by the Care Quality Commission, the service was considered to provide very good care however the fabric of the building was criticised.
- 9.3 Whilst the care is good, it is not cost effective to employ 11 members of staff to support a maximum of 11 service users at any one time. During a period of 52 weeks, 38 people benefited from the service, which indicates that the service operates at an average capacity of about 70%.
- 9.4 The building cannot be made fit for purpose without a substantial investment of capital.



- 9.5 Currently, up to eleven service users can benefit from a site that could accommodate approximately 30 units of accommodation or be redeveloped for other purposes that could benefit the whole local community.
- 9.6 The proposed alternative approach to supporting people into appropriate accommodation and reintegrating into the community can be delivered in a more person centred way by using units within sheltered housing across Medway.

**Lead officer contacts**

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**Background papers**

Review of Compliance Report for Shalder House by the Care Quality Commission, March 2011

## Appendix One

### Diversity Impact Assessment

<b>Directorate</b> Children and Adults	<b>Name of Function</b> Shalder House		
Officer responsible for assessment  Genette Laws	Date of assessment  October 2011	New or existing?  existing	
<b>Defining what is being assessed</b>			
<b>1. Briefly describe the purpose and objectives</b>	Decommission the Shalder House service		
<b>2. Who is intended to benefit, and in what way?</b>	The tax payer will continue to fund the needs of future potential service users in more cost effective ways.		
<b>3. What outcomes are wanted?</b>	Cost effective solutions for individuals  Opportunity for the local area to benefit from the redevelopment of the site.		
<b>4. What factors/forces could contribute/detract from the outcomes?</b>	<u>Contribute</u> Good working relationship with Housing to provide cost effective outcomes.  Vacancies within other areas will lead to no, or low, redundancies.	<u>Detract</u> Severe weather may lead to a delay in the programme in terms of consultation or implementation.	
<b>5. Who are the main stakeholders?</b>	Employees Service users Rapid Response team (main referring agency) Hospital		
<b>6. Who implements this and who is responsible?</b>	Social Care Commissioning team will facilitate the consultation and will be responsible for implementation of the decision by the Director for Children and Adults.		

<b>Assessing impact</b>		
<b>7. Are there concerns that there <u>could</u> be a differential impact due to <i>racial groups</i>?</b>	YES	There is no significant over representation of a minority ethnic group.
	NO	

What evidence exists for this?	Information held on Care Director	
8. Are there concerns that there <u>could</u> be a differential impact due to <i>disability</i> ?	YES	The service is designed for people with vulnerabilities rather than disabilities. Where a person's primary vulnerability relates to a disability, this is met via other services.
	NO	
What evidence exists for this?	Pen pictures of the people that have used Shalder House	
9. Are there concerns that there <u>could</u> be a differential impact due to <i>gender</i> ?	YES	The service users of Shalder House reflect the gender profile of people that receive care and support from Adult Social Care
	NO	
What evidence exists for this?		
10. Are there concerns there <u>could</u> be a differential impact due to <i>sexual orientation</i> ?	YES	There is no information to neither indicate this nor refute it.
	NO	
What evidence exists for this?	The monitoring of sexual orientation is a challenge for the council.	
11. Are there concerns there <u>could</u> be a have a differential impact due to <i>religion or belief</i> ?	YES	There is no information to neither indicate this nor refute it.
	NO	
What evidence exists for this?	The monitoring of religion is a challenge for the council.	
12. Are there concerns there <u>could</u> be a differential impact due to people's <i>age</i> ?	YES	Whilst the users of the service are older people. The alternative arrangements are specifically designed for people aged over 55.
	NO	
What evidence exists for this?	Active discussions with in-house sheltered housing colleagues indicate that there are a sufficient number of voids to meet the actual demand for the Shalder House service.	
13. Are there concerns that there <u>could</u> be a differential impact due to <i>being transgendered or transsexual</i> ?	YES	There is no information to neither indicate this nor refute it.
	NO	
What evidence exists for this?	The monitoring of transgender or transsexual is a challenge for the council.	
14. Are there any <i>other</i> groups that would find it difficult to access/make use	YES	

of the function (e.g. people with caring responsibilities or dependants, those with an offending past, or people living in rural areas)?	NO	
What evidence exists for this?		
15. Are there concerns there <u>could</u> be a have a differential impact due to <i>multiple discriminations</i> (e.g. disability <u>and</u> age)?	YES	Brief statement of main issue
	NO	
What evidence exists for this?	Please see above	

Conclusions & recommendation		
16. Could the differential impacts identified in questions 7-15 amount to there being the potential for adverse impact?	YES	Shalder House is an accommodation based service which means that regardless of your original home address, should you need the support currently offered by Shalder House you must move into that locality. By using the voids within Sheltered Housing accommodation, the person is more likely to move into accommodation that is in or near their original home address.
	NO	
17. Can the adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or another reason?	YES	<b>Not applicable</b>
	NO	
Recommendation to proceed to a full impact assessment?		
NO	Please see comments above which will be further informed by the outcome of consultation over 30 days.	
NO BUT ...	What is required to ensure this complies with the requirements of the legislation? (see DIA Guidance Notes)?	
YES	Give details of key person responsible and target date for carrying out full impact assessment (see DIA Guidance Notes)	

Action plan to make Minor modifications		
Outcome	Actions (with date of completion)	Officer responsible


<b>Planning ahead: Reminders for the next review</b>		
<b>Date of next review</b>		
<b>Areas to check at next review (e.g. new census information, new legislation due)</b>		
<b>Is there <i>another</i> group (e.g. new communities) that is relevant and ought to be considered next time?</b>	No	
<b>Signed (completing officer/service manager)</b> Genette Laws, Social Care Commissioning and Voluntary Sector Manager	<b>Date</b> October 2011	
<b>Signed (service manager/Assistant Director)</b>	<b>Date</b>	

<b>Risk</b>	<b>Description</b>	<b>Action to avoid or mitigate risk</b>
Complaints/ litigation from employees	Some employees may transfer their anxiety about future job prospects by encouraging service users or the wider community to campaign against the decision.	Clear communication that redundancies will be minimised by redeploying employees to appropriate alternative positions.
Not ensuring that successor arrangements meet the needs of future individuals with similar circumstances	Future people in need may not get the help they need.	<p>Adult Social Care (ASC) is working with colleagues to agree a multi-agency protocol for Medway that relates to people with complex social needs that do not necessarily fit into the 'neat' criteria of each agency.</p> <p>ASC is also working with housing colleagues to manage resources more effectively in terms of managing voids to meet the gaps in the market for vulnerable adults.</p>