

CABINET

20 DECEMBER 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 update Cabinet about the consultation that was approved on 1 November 2011. Subject to the final outcome of the consultation being reported in an addendum to this report, agreement will be sought about the future of the service at Shalder House and the future of the site.

The Council owns Shalder House. The ground floor of the building 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. The upper floors of the property are not used.

This paper sets out the reasons for, and the activities relating to, undertaking consultation and engagement about the proposal to decommission the service.

The Health and Adult Social Care Overview and Scrutiny Committee are considering a report on this issue on 15 December 2011. The views of Overview and Scrutiny Committee will be reported to Cabinet in the addendum report.

Given that the consultation on the proposals finishes on 15 December 2011, after the date of despatch of this report, the final outcome of consultation will be reported to Cabinet in the addendum report.

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 On 1 November 2011, Cabinet agreed that officers could consult with stakeholders about the preferred option to decommission the service operating at Shalder House.
- 2.2 The service 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. Over the last 12 months 38 people received a service and their average length of stay was 49 days (7 weeks). The occupancy rate of the service during the last 12 months was 51%.
- 2.3 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 options for the future of Shalder House are as set out below:
- 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 and has been the subject of consultation.
- 3.1.2 **Continue using Shalder House and not improve 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 to improve 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 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 £10 million."*

- 4.2 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 sheltered housing and/or extra care housing developments have been completed or are underway, which means that the future use of the Shalder site does not necessarily have to be limited to the Sheltered housing and/or Extra care uses as there is adequate provision planned in this area. As of this year, there are about 200 units of Extra care accommodation planned in this area. As of this year, there are about 200 units of Extra care planned for development and 60 of those units will be available for occupancy in spring 2012 in Gillingham.
- 4.3 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:
- 4.4 "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."
- 4.5 As at the 5 December, there is one person receiving a service at Shalder House. There are currently 13 employees delivering the service. As per the advice detailed in the Cabinet report, presented on 1 November, no new placements were made in Shalder House after 1 November.
- 4.6 The direct cost for each unit at Shalder House is £722 per week for each unit if the service is fully occupied. This weekly cost increases if occupancy is less than 100%.
- 4.7 Officers consider that there are more cost-effective ways to provide the service that continues to meet the needs of the service users. Officers considered an option to 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. A review of the current services available for rehabilitation demonstrated that there is sufficient capacity in other services that would respond to need.
- 4.8 The wrap around care required for the relevant service users will be provided by the relevant primary home care provider for that geographical area, relevant health professionals and nominated workers trained in enablement to ensure that the person moves on; either to their home, another suitable independent living setting, or where necessary a more formal care setting.
- 4.9 The consultation findings, so far, are detailed in section six

5. Risk management

Risk	Description	Action to avoid or mitigate risk
Financial	Redundancy costs	Work shadowing for employees will enable them to have more redeployment options. Where appropriate, vacancies are being held to provide opportunities for redeployment.
Access to services	Insufficient supply of rehabilitation services	Monitoring arrangements are in place to be able to respond to any spikes in demand for rehabilitation services.

6. Consultation

- 6.1 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.
- 6.2 Even if the Council is able to demonstrate cogent reasons for the proposals 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.
- 6.3 Given the number of current service users and staff members, Cabinet agreed that consultation be undertaken for a thirty-day period. This took into account the low number service users over the last 12 months and the status/tenure of the service users, i.e. the service is not their permanent home. The consultation period commenced for both service users and employees on 15 November 2011 and concludes on 15 December 2011. The final outcome of consultation will be reported to Cabinet in the addendum report. In the meantime, details of the consultation responses received before the publication of this report are set out below.
- 6.4 Officers wrote to Medway Community Healthcare (MCH) to seek their views about the proposal, MCH manage the Rapid Response Team that makes referrals into the service. MCH did not raise any concerns about the

proposals and have managed their referrals during the consultation period without adversely impacting on outcomes for service users.

- 6.5 Medway Link agreed to post the consultation questionnaire on their website and post the questionnaires to those that registered an interest in rehabilitation. No questionnaires have been returned from these stakeholders so far.
- 6.6 Operational staff at Shalder House advised against consultation with existing service users due to their vulnerabilities. Therefore consultation was sent out to 33 former service users. Although there were 38 users of the service over the last 12 months, two were resident at the time of the questionnaires being sent out and three had passed away at the time of undertaking the survey.
- 6.7 Of the 33 questionnaires that were circulated, 10 completed questionnaires were returned by 8 December. There is no definitive rate of return that determines the effectiveness of postal surveys – it can range from 5% to 40% depending on the issue and population that are being surveyed. A target of 30% was set for this survey. Late into the consultation period, two questionnaires were returned as ‘address not known’. Assuming that the remaining 31 questionnaires reached their destination, the return rate was approximately 30%.
- 6.8 Of those that completed and returned the questionnaire, one described an unsatisfactory experience where they fell out of bed on the first night and were returned to hospital. The remainder were very positive about their experience and this reflected the findings of the Care Quality Commission’s inspection.
- 6.9 The responses from former service users clearly indicated the following:
 - 6.9.1 Where they lived prior to moving into Shalder House
All the clients lived in a private residence. Service users came from all over Medway.
 - 6.9.2 What led to them needing support from Shalder House
All bar one of the service users had an incident that led them being treated in hospital and then being discharged then either into a residential care setting and then Shalder House or directly into Shalder House.
 - 6.9.3 What prevented them from receiving support in their own home
Many clients talked about being ‘unable to cope with looking after myself’. Two explained that on the advice of health or social care professionals they did not return to their home.
 - 6.9.4 Three best things about being at Shalder House
Many of the respondents referred to the staff group in terms of being caring and supportive. A couple of respondents talked about the support received with their rehabilitation. However, the most popular best thing that former service users described was

knowing that there was someone around to help and the feeling of safety.

- 6.9.5 Three worst things about being at Shalder House
Two respondents did not complete this section and three positively explained that they could not think of any 'worst things'. Those that did respond described the parking for visitors as difficult, a pressure to find alternative accommodation and the poor fabric of the building and the rooms. One respondent described feeling isolated, however, this was in the context of not having the right equipment, i.e. a walking frame, to access community facilities.
- 6.9.6 Other support received whilst at Shalder House
Professionals or services that 'reached in' to support residents included Physiotherapists, Occupational Therapists, Community Health Nurses, the Department of Works and Pensions and Housing.
- 6.9.7 Alternative design of care to Shalder House
One respondent would have preferred to receive the care package that is currently being received in their own home so that they could enjoy a private bathroom with shower. Another referred to a similar arrangement being available but with a doctor and nurse assigned to the scheme for treatment on site.
- 6.9.8 Where they moved onto after Shalder House
Four returned home; one sold their home to move to another more suitable private residence; three moved into sheltered housing; one moved into a care home; and one returned to hospital.
- 6.9.9 What, if anything, delayed moving on from Shalder House
Where respondents provided a response the delays related to selling their current property; delivery of equipment for independent living; adjustments by housing to make the home appropriate for independent living and a reluctance to accept the need for residential care.
- 6.9.10 Other comments
One client described the fear of 'being put into a home and forgotten.' Another respondent described the fear of being forced into a care home. One recipient suggested that costs could be reduced by not heating all the areas like the lounge. The availability of a supported accommodation arrangement gave peace of mind to family who wanted to be out of area for a few days. One recipient was clear that some form of step down care should be available and 'more not less is needed'. One client wanted to have a permanent place.

6.10 The consultation with employees:

6.10.1 All thirteen members of staff attended a meeting on 15 November. As part of that meeting, officers offered to provide independent support for developing any counter-proposals. The support was offered because the counter-proposal would relate to developing a structure and service that is viable for continuation rather than simply responding to a restructure of roles. The support was available from 29 November. At the date of despatch of the report counterproposals had not yet been received. Any counter-proposals that are received by 15 December will be reported in the addendum report.

6.11 The initial diversity impact assessment screening has been updated in terms of the outcome of the consultation. This will be provided to Cabinet in the addendum report.

7. Legal, financial, property and HR implications

7.1 Legal

7.1.1 When considering making changes to service provision, the Council 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 private and voluntary sector care budgets and so efficiencies and savings can be made.
- 7.2.2 The net saving in a full year will be £412,964 from the Adult Social Care budgets, however there will be implications for the HRA, in terms of loss of rental income.
- 7.2.3 There is a possibility that redundancy costs will be incurred and the worst case scenario is a cost in the region of £100,000. The Council would always seek to minimise redundancies where possible by use of redeployment of employees.

7.3 Property

- 7.3.1 As the value of the property is over £100,000 but below £1,000,000 any disposal would be 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.
- 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.
- 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 partly because the council is securing purpose built Extra Care Housing, which will reduce the need for residential care and sheltered accommodation and partly because people's aspirations have increased over the years.
- 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 2011, the balance of the 'pot' stood at just over £8.4 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.
- 7.3.9 The current Assistant Director of Housing and Corporate Services is leaving her post at the end of December 2011. The Chief Finance Officer will assume management responsibility for the service until the post is filled. Therefore, Cabinet is asked to delegate any property matters to the Chief Finance Officer.

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. 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 The recommendations for Cabinet will be set out in the addendum report to Cabinet given that the addendum report will set out the final outcome of consultation on the proposals.

9. Suggested reasons for decisions

- 9.1 The suggested reasons for decision will be set out in the addendum report to Cabinet given that the addendum report will set out the final outcome of consultation on the proposals.

Lead officer contacts

Genette Laws

Social Care Commissioning and Voluntary Sector Manager

Children & Adults, Gun Wharf

EXT 1345.

genette.laws@medway.gov.uk

Background papers

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