
Meeting of the Cabinet – 17th December 2020

Report of the Director of Adult Social Care

Extra Care Provision / Development in Dudley

Purpose

1. To detail a market / development opportunity in Dudley for the provision of a purpose-built Extra Care scheme, together with potential to add a multipurpose nursing hub as phase 2.
2. The paper details the practical steps required to deliver the scheme specifically focussing on: -
 - a) The Lease arrangement and simultaneous sub-lease
 - b) The Care contract and process to identify a care provider

Recommendations

3. That, subject to the necessary approval by Full Council, the Cabinet is recommended to:-
 - Approve entering into a long-term lease arrangement on the basis the financial and legal obligations are offset by way of an underlease to a reputable housing association and include the project in the Capital Programme.
 - Delegate authority to the Director of Adult Social Care, in consultation with the Director of Finance and Legal, the Director of Housing and Community Services and the relevant Cabinet Members to implement the programme of work needed to ensure successful delivery.
 - Identify a preferred Housing Association and Care Provider through current frameworks available to the Council in line with Procurement Regulations and negotiate leases.



Background

4. Dudley has a range of care providers in the Borough supporting people in care settings / their own homes and day support. Within the older people's service area, the provision can be segmented into the following areas: -

Service Type	Desired placement trajectory
Nursing Care Homes	Static
Residential Care Homes	Reduce
Extra Care	Increase
Home Care	Increase

5. **Key points of analysis**

- Nursing Care provision is growing and costs for complex nursing placements are rising
- Confidence in residential care homes has started to impact placements with more people choosing to stay at home with care / support packages
- Dudley's lack of Extra Care provision to support independent living is putting a strain on home care and will mean that care in people's own homes will be at higher levels and thus uneconomical to deliver at scale
- The Council's latest Market Position Statement detailed the need for Extra Care to be a direct replacement for Residential Care
- Depending on the pace and availability of Extra Care that is viable in Dudley, a programme of replacing Residential Care over the next 5 years is the desired direction

What is Extra Care

6. Extra Care schemes are buildings comprising of a number of self-contained flats with 24/7 care and support on site. They are usually designated for people over the age of 55. Many schemes operate with mixed tenures on-site with people able to buy a flat / part buy-part rent / rent or socially rent flats.
7. There are usually a range of care needs on-site too, with some people having no care needs to some people having significant care needs.
8. Within Dudley, the 3 larger Extra Care schemes (circa 100 flats per scheme) are mixed tenure models with circa 120 DMBC care funded clients. These schemes, whilst well-built and laid out, are not geared towards supporting Adult Social Care and high needs clients due to a number of factors including:-



- Mixed tenures creates divisions amongst residents and tenants with those who have brought flats having issues with those with care needs / rental flats
- The Housing provider is geared towards the mixed care models and is thus risk averse to higher care needs clients
- The Care Providers have not been willing / able to support higher numbers of high need clients due to their business models and staffing structures
- Historic set up of the schemes are unlikely to change due to the mixed tenure models

Demand management and Dudley requirement

9. Within Dudley the Extra Care offer and available capacity for DMBC funded clients is considered as low and in need of growth. Many local authorities have pinpointed Extra Care developments as future growth areas with neighbouring Sandwell and Wolverhampton Council's instigating new builds and other areas having established Extra Care provision.
10. Whilst many Extra Care schemes operate on a mixed care model (low/medium/high), the proposed new scheme will be aimed at 'high' care need cohorts which will see it as a straight replacement for residential care.
11. The current residential care market for older people in Dudley is mixed. There are a number of dated buildings with poor accommodation standards that do not meet Care Quality Commission (CQC) room size standards (based on new build requirements). There has been little growth in residential care in Dudley with any new buildings focussing on Nursing Care. Whilst this is a need for Dudley (in particular for more complex care), the neglected residential market is gaining national recognition in light of COVID-19 and the need to improve building standards and instigate growth are seen as key drivers.
12. Dudley is leading a pilot study on behalf of Association of Directors of Adult Social Services (ADASS) (West Midlands) in regards to care homes in the area – specifically linked to future needs against current building / ownership stock.
13. Were a residential care home newly open in Dudley, the Council's pulling power to contract at 'normal' market rates is minimal with the likelihood that the provider will target self-funders at higher unit rates.
14. As depicted in Point 8, the Council has circa 120 Extra Care placements accessible for people with Social Care needs. These placements form part of larger mixed



tenure schemes. It is envisaged that the Council's growth strategy for Extra Care will require formalising to entice developers into the Borough.

15. Should the Council continue with its strategy of reducing Residential Care then a stream of new build Extra Care will be required to meet this demand.
16. Key Market Points in Dudley
 - Dudley has a low level of Extra Care 'units'
 - The number of ASC specific allocation is particularly low when compared to other areas (e.g. Coventry had at point circa 800 ASC full nomination rights places)
 - Block arrangements for existing Extra Care in Dudley were removed in place of spot arrangements
 - Mixed tenure model has proved difficult to manage in Dudley / nationally
 - No clear direction for Extra Care currently in Dudley and commissioned model to make it work
 - Lack of available land and market appetite makes it difficult for Dudley to compete
 - However, Medium Term Financial Strategy initiative in 2018 identified Extra Care as a key driver to deliver savings to Adult Social Care whilst also developing mixed markets in Dudley for older people
 - Market Position Statement (released in July 2019) identified the need for Extra Care
 - Care Home market is currently difficult to place / secure places at base rates whilst confidence in Care Homes has spiralled in light of COVID-19
 - Regional work being undertaken (Dudley supported pilot) has identified that accommodation standards within Care Homes will be the next key area of focus locally and nationally with several homes offering sub-standard levels

Moor Street opportunity / history

17. E5 Living is a private development company with its routes in the West Midlands currently having a UK development program to include family and executive homes in Worcestershire to a major residential scheme adjacent to the Princess Dianna Hospital in Grimsby.
18. E5 (Developer) approached Dudley MBC and Dudley Clinical Commissioning Group (CCG) in 2018 to initially discuss Dudley's needs for care and support. E5



had at that point recently acquired a site on Moor Street in Brierley Hill which has a current outline planning consent for 94 general needs flats.

19. Dudley officers indicated the need for high need Extra Care and Complex Nursing provision on a single site. The Council indicated that an opportunity to offer strong long-term care contracts to support the development could be considered should the scheme mobilise.
20. E5 entered dialogue with a range of Housing Associations and Care Providers with the aim of developing an offer to Dudley. The key principles of the build were / are:
 - Any rental levels would be Housing Benefit eligible
 - Dudley MBC would have key involvement in the build and design
 - A strong care contract with a focus on high dependency
 - A commitment to a high-quality build level / eco-friendly design and features / high sustainability levels
21. Following extensive discussions, the scheme was proven not viable to continue with a Housing Association and Care Provider. The indicative build cost is **£15m** for the extra care which brought the rental levels to £205 per week which would have meant a need to subsidise the rent from within ASC budgets.
22. E5 presented an option and solution to deliver the identical scheme at affordable rent levels within ASC Budgets.
23. This would involve a fundamental change to the structure of the deal with the Council taking the lease from E5 for 35 years with the ability to under let for the full 35 years at the same rent to the councils nominated Housing association and care provider, thus offsetting its financial and other lease obligations liabilities in totality.
24. DMBC will have the ability to include break clauses within the underlease to mirror the care contract so to control and maintain the level of care.

Fundamentals of the arrangement

25. The Council would enter into an initial agreement to take the 35-year lease arrangement with E5 on completion for the new building. This would mean the liability to pay a yearly rent to E5 for the building would be on DMBC after completion on the building and rent-free period (6 months).
26. However, the Council will seek to identify a Housing Association which will simultaneously enter into a direct underlease with DMBC. This will ensure that the Council is able to offset 100% of its liability and commitments by way of the underlease granted to the Housing association.



27. The rental levels would initially be fixed at circa £165 per week at commencement of services (likely to be 2023) with the rental levels (and thus associated yearly rent of the scheme) following the Housing Benefit indexation on an annual basis.
28. Initial rent will be the greater of: -
- a) £165 per week per unit set on signing the agreement to lease with CPI indexation to be applied at the commencement of the lease in line with Housing Benefit levels for the duration of the arrangement
 - b) The actual Housing Benefit rent level for the extra care scheme as at commencement of the lease

The Housing Association will be required via the terms of the underlease to be responsible for the maintenance / repair and upkeep of the buildings.

29. The terms of the underlease will include:
- i. Mirror obligations of the lease rent with DMBC
 - ii. Mirror the maintenance and repairing obligations
 - iii. The HA will be permitted to grant AST's to individual tenants.
 - iv. The HA via the AST will have ability to collect a service charge for the maintenance and upkeep of all common areas together with a contribution to a sinking fund and void costs. – See typical sample rent demand.
 - v. DMBC will simultaneously enter into a care agreement with the HA if they are providing the domiciliary care or jointly with the HA if care is provided by an independent specialist provider.
30. This will be a brand-new building designed for long term sustainability incorporating renewable energy to assist in efficient maintenance and low-cost running expenses.
31. As this is a new build the developer will provide pre agreed satisfactory warranties on the building (Probably in the form of a LABC Warranty) for the benefit of DMBC.
32. E5 will engage with both DMBC and the chosen Housing Association to agree the design and detailed specification of the building prior to signing an agreement.
33. It is intended to deliver the building with all flats completed ready for occupation to include fitted kitchens, bathrooms, floor coverings etc. as per agreed specific requirement from the HA/care provider. (See attached sample detailed specification).



Phased development

34. Phase 1

- a) 2 x 50 Extra Care flats through an independent agreement between E5/DMBC and the Housing Association
- b) DMBC will benefit from a 6 month Rent free period from date of handover
- c) E5 will agree with DMBC a phased handover to enable DMBC obtaining maximum benefit of the rent-free period

35. The aim will be to achieve full occupancy within the rent-free period which will further benefit the Council's lease commitment in the first year.

36. Phase 2

- a) E5 and DMBC will enter into an **option agreement** for the surplus land on site once the best complementary use for phase 2 has been identified
- b) E5 entering into a similar development agreement with DMBC to deliver Phase 2 should this be an option agreeable to all parties
- c) Currently phase 2 has been identified as a potential multi-purpose 45 bed nursing hub to compliment and support the extra care facility providing a clear on-site pathway

37. In turn DMBC will enter into an operational agreement with the care / service provider for the provision of Nursing care.

38. DMBC will have the ability to grant an underlease and care contract for the full length of the head lease and if required incorporate in the underlease the ability to break the lease and grant a new lease with a new HA/care provider should the need emerge (based on quality levels and / or appetite to continue or secure new partners).

39. The opportunity presented by E5 offers the Council with a potential purpose built, high spec building at nil capital outlay aimed to be within existing housing budgets (as at start of 2023 when building is completed and handed over) and to deliver a saving on care provision.

40. Prior to DMBC signing the agreement to Lease; E5 will provide documentation to verify the funder (for DMBC's approval) together with confirmation that the funder has agreed to provide funding for the entire project.

41. DMBC will have the ability to instruct its own Building surveyor to monitor the development to ensure construction is following the specification and to ensure quality build is sustained.



42. The Potential negative effect the 35-year lease may well have on DMBC's balance sheet is offset by the mirror terms of underlease to the Housing Association.

Care contract and arrangement

43. Officers have been liaising with both Housing Associations and Care Providers in regards to the desire / willingness / appetite for such a development. Both current contracted providers and those operating outside of Dudley have indicated positively to taking on the arrangement with the key attraction being the: -
- a) Level of hours required on site
 - b) Purpose built scheme
 - c) No travel time
 - d) LA commitment and potential long-term arrangement
 - e) Ability to grow community-based care in Dudley operating from the Extra Care contracts
44. Should Council approve the proposed arrangement, officers will enter into a formal procurement process to identify a Housing Association and Care Provider.
45. This could potentially be a dual organisation which operates as a Housing Association and Care Provider.
46. The proposed Housing arrangement would aim to mirror the DMBC lease arrangement thus a 35-year arrangement with break clauses at designated points. The break clause will enable DMBC requirement of quality of service and care to be maintained.

Implementation Plan / Model

47. The modelling is based on a 15 client move in schedule per month across 6 months.



48. A clear and focussed implementation plan will be developed to: -
- a) Ensure that there is a pipeline of clients ready to move into the scheme
 - b) Scale back use of residential care in the period leading up to the opening of the scheme
 - c) Develop clear dialogue across the Dudley system on usage and strategy with the schemes, in particular with the Dudley Group and CCG / ICP to maximise best usage and set expectations
 - d) Create an open and transparent arrangement with the Housing Association and Care Provider
 - e) Support promotion of the scheme locally within Dudley communities and within Council teams
 - f) Develop clear literature for clients / families to ensure full understanding of the accommodation and care is in place
49. The implementation plan will be overseen by a key lead from the ICH in partnership with an operational lead from the A&I team.
50. Consideration of a revision to the fairer charging policy will commence which seeks to maximise income from clients (care charges) in line with other Local Authorities to benefit the Council.
51. Both E5 / the Housing Association / Care Provider and the Council will be fully involved in the implementation plans to ensure the programme delivers as per agreed.

Summary

52. The opportunity presented will provide a fit for purpose new build scheme to Dudley privately funded, creating local construction related employment as well as core staffing jobs for the duration of the scheme's lifespan
53. It brings a growth development to Brierley Hill which has been pinpointed as an area to focus on in Dudley.
54. The arrangement proposed can be replicated on a number of levels across Adults and Childrens Social Care / SEND to instigate new build / high spec builds with Council controlled contracts.
55. A key positive of this particular arrangement is the nil cash outlay to the Council together with a substantial annual cost saving to the adult services care budget.



There are no costs attributable to the build through the associated care arrangement with the developer obtaining funding from the long-term lease arrangement.

56. The Council will have to weigh up the risk / liability of holding a long-term lease, mitigated and offset with arrangements in place through a strong under lease mirroring the council's obligations and care contact offsetting its financial and legal obligations.
57. Should the Council agree to proceed with this arrangement, appointments of Legal Support would be recommended to ensure the Council is both clear and protected in its arrangement.
58. As part of E5's commitment that the principle of this transaction of Nil cash outlay for DMBC.
59. E5 will reimburse DMBC's legal costs incurred in relation to this transaction on commencement of the construction programme.
60. Resources from the Council to oversee the programme will be required (Programme oversight / Building specific officers from within the Local Authority).
61. E5 are committed to working with DMBC to provide a new fit for purpose facility, within current budgets through a clear and transparent process which will see an indicative £15m investment into Dudley.
62. Associated documents are attached to this report comprising of: -
 - a) Site outline
 - b) Site detail showing location of 2x50 flat scheme and potential phase 2 Nursing facility
 - c) Indicative Spec of build
 - d) Diagram depicting E5 / DMBC / Housing Association and Care Provider arrangement

Finance

Proposed funding model / cost and rationale

63. Adult Social Care are clear that this arrangement will not / cannot add additional budget to current levels. The aim of the scheme will be defined as a replacement for residential care placements (both general and dementia).



- 64. The scheme will deliver a reduction of care home placements and thus care home budget with an increase in community based spend. The net effect of the budget will see a reduced spend (see placement projection at start up and for the subsequent 5 years).
- 65. As depicted earlier in the paper, this scheme will be fundamentally different to most Extra Care schemes in that it will be a high needs provision. Thus, each person will require significant care within their flat / scheme.
- 66. The cost modelling below is based on a range of gross costs per placement (equivalent of a high number of hours per person per week). Against the backdrop of a current gross cost in residential care of £493 (mean average across residential and residential dementia), there is a tangible cost saving for ASC on the care cost.

Savings to DMBC

- 67. A range of cost modelling exercises have been developed in relation to care cost impacts for Adult Social Care. The below shows a range of scenarios which take into account the gross savings / net savings (and impact) when changes in income are built into the modelling and also a scenario of a change in income policy (in line with a number of other Local Authorities).
- 68. Each table shows the gross impact and net impact of the schemes against the backdrop of a residential placement.
- 69. There are a range of key points and assumptions detailed at the end of the section which are attributable to both models.

70. Gross Impact

Year 1	Year 2	Year 3	Year 4	Year 5
£520,292	£622,079	£598,687	£573,395	£546,106

Net Impact

Year 1	Year 2	Year 3	Year 4	Year 5
£99,224	£137,851	£114,460	£89,167	£61,878



71. Key points

- Net impact takes into account the differential income from a residential charge for clients and the charges for people in the community.
- The savings from the care are drastically reduced when taking into account the reduced income but it still delivers: -
 - a) An overall saving for Adult Social Care
 - b) A future proof level of accommodation at high specification and associated high level care contract
- Year 1 assumes a 6 month fill in period at 15 clients per month, hence the reduced funding levels
- Current modelling assumes home care rate grows at double the residential rate to remain prudent in the current market
- The home care rate, although applied in this model, is not fully reflective of the Extra Care rate which will always be lower due to the consolidation of provision / no travel time and staff stability

Law

72. Section 123 Local Government Act 1972 provides for the Council to obtain for a consideration at best consideration. Section 111 Local Government Act 1972 states that a Council shall have power to do anything (whether or not involving expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, to the discharge of any of their functions and Section 1 Localism Act 2011 powers the Council with general powers of competence to do anything that an individual may do.

Equality Impact

73. An initial screening Equalities Impact Assessment has been populated which details the positive impact of the new development on all older people with protected characteristics (including the local community).

As part of the implementation of the scheme and associated access to the scheme, a bespoke Governance process will be in place and a further Equalities Impact Assessment will be completed.

74. There is no effect of the decision on children and young people as the scheme is for older people.



Local schools / children will be involved as part of the community engagement work proposed during the construction phases of the scheme.

It is also anticipated that local schools / children will work with the housing and care operator once mobilised with inter-generational activities / opportunities and learning.

Human Resources/Organisational Development

75. There are no Human Resources / Organisational Development implications as part of this report / project.

Commercial/Procurement

76. The proposed identification of a Registered Housing Provider and a Care Provider will be managed through the Intend system with support from the Procurement Team. The process will review the options whether to build on existing frameworks available to the Council or establish new ones.

The Procurement Management Group will provide guidance on the optimum route to market in line with the Council / Directorate requirements and will ensure compliance with Contract Standing Orders and Procurement Legislation.

Health, Wellbeing and Safety

77. The development will provide a positive impact on people's health and well-being. The scheme will support people with care needs and health conditions through on-site care and increased levels of independent living and community cohesion.

This is consistent with building stronger, safer and more resilient communities in line with the Dudley Vision and to protect our residents' physical, and emotional health for the future. It is also consistent with the Dudley Older People's Market Position Statement (2019 – 2022).

78. The scheme will, as with any new housing build, require services and support from local GP practices. Specific community health services may be required for individual people as their health needs require.

The scheme will not import any non-Dudley residents into the Borough and will support the local community.



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Supporting Documents: -

- 1) Site Layout
- 2) Whole Site Plan
- 3) All Stakeholder arrangements diagram

