

By: Oliver Mills, Managing Director, Kent Adult Social Services

To: Graham Gibbens, Cabinet Member, Adult Social Services

Subject: **OUTCOME OF THE FORMAL CONSULTATION ON THE VARIATION OF SERVICE AT KILN COURT REGISTERED CARE CENTRE, FAVERSHAM**

Classification: Unrestricted

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Summary: This report considers the proposal to transfer services at Kiln Court into a partnership with an independent sector provider and summarises the responses to the consultation. The report asks the Cabinet member to approve the proposal to transfer services at Kiln Court into a partnership with a private organisation that will continue to deliver services but develop, modernise and tailor services under separate arrangements and possibly at a different locations in Faversham

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## 1. Background

(1) Kent County Council (KCC) is modernising the way older people are supported and cared for in the county.

(2) On Monday 14 June 2010, Kent County Council's Cabinet agreed for Kent Adult Social Services (KASS) to begin a formal consultation on the future of its Older Person's Service Provision. From Monday 21 June 2010, KASS officers met with members of staff, service users, relatives, trades unions and other key stakeholders to talk about the proposals.

(3) The full consultation covered 11 of the 16 homes owned and managed by KASS.

### **The main drivers for the full consultation are:**

- **More people are living longer and living with dementia. People rightly expect more choice in care.**
- **High quality care is a continuing priority. Dignity in care is crucial and more people want care at home.**
- **Residential care should be in high quality buildings. Some KCC buildings have reached the end of their useful life and don't meet expectations or standards for new builds.**
- **Good quality care can be commissioned for less money. The private and voluntary sector is set up to care for more people.**

(4) The considerations and options evaluated to determine the proposals for each home included:

- a) The range of alternative local services for older people
- b) The opportunity for developments with partners in the local area
- c) The condition of the buildings and likely capital expenditure required to maintain services
- d) The appropriateness of the design of the buildings for the services delivered and required
- e) The need to release money that is tied in to services that could be used to deliver equivalent services to more people

(5) The proposals combined will generate savings of £1m in 2011/12 and £1.2m in 2012/13.

(6) This report covers Kiln Court Registered Care Centre in Faversham. The proposal in the consultation is for the services to be transferred into a partnership with a private organisation, which would continue to deliver services but develop, modernise and tailor services under separate arrangements and possibly at different locations in Swale. A similar proposal has been made for Blackburn Lodge, Sheerness and Doubleday Lodge, Sittingbourne.

(7) Kiln Court is a detached 30-bed unit built in 1988. It offers residential care, short term rehabilitation care and day care to a maximum capacity of 13 people per day, four days per week. It is freehold and has no known restrictive covenants. It was purpose built in a residential area in Lower Road, Ospringe, Faversham. The accommodation is on a single floor and is registered for older people with general frailty. The building would not meet the national minimum standards of the Care Standards Act 2000 as regulated by the Care Quality Commission if it were to be built today. There is, however, protection against these standards being applied for as long as significant structural improvements are not required. The building may, very soon because of its age, require considerable investment to maintain services and meet future needs and expectations.

(8) The unit cost (gross), based on 100% occupancy for one bed, was £621.49 per week for 09/10. The unit cost (gross), based on 100% occupancy in the day centre, was £42.25 per day for 09/10. The annual gross expenditure for 2009/10 was £972,000 for the residential unit and £109,900 for the day care, totalling **£1,081,900**.

(9) Kiln Court offers 12 permanent for general frailty beds, 10 respite beds for general frailty and eight intermediate care beds. At 11 November 2010, there are 10 permanent residents. The day care centre has capacity for 13 people a day (Monday to Thursday). In 2009/10, the building was running at 78% of its residential capacity making the actual unit cost £799.34 and the day care at 31% occupancy making the unit cost £137.84 per day.

(10) The maximum charge for individuals accessing the beds in the units is currently capped at £407.92 per week. Everyone that accesses residential and respite services is financially assessed for a contribution towards their care in line with the Charging for Residential Accommodation Guide (CRAG). This means that individuals who have savings of more than £23,250 are charged £407.92 per week and anyone with less than £23,250 is assessed against their means to determine their level of payment. A snapshot undertaken in the summer of 2010 indicated at that time there were 51 people living in the in house residential services being charged £407.92 per week.

(11) KASS has a guide price for the independent sector and can buy services in the Swale District for £342.85 per week for standard residential care (general frailty).

(12) The Care Quality Commission (CQC), in its last inspection in 2008, rated the service as 'good'. There was very positive feedback about the services both from inspectors and service users. The inspectors did make reference to the fact that, other than the two bedrooms that have ensuite bathrooms, the other 28 rooms do not have ensuite toilets.

(13) Local commissioners recognise that Kiln Court offers some services that they would be looking to continue to provide in partnership. This would be with an independent organisation with a good track record, access to capital funding and long term viability – but this may not be on the same site as Kiln Court. Intermediate care would be included in future provision, in partnership with the PCT and the independent sector.

(14) An organisation has made contact to advise that, should Kiln Court be disposed of, an additional payment to the organisation that sold the land to KCC may need to be considered. However a report on the title has revealed that this expired in 1994 and has no further effect.

## 2. Consultation Process

(1) The county council has a duty to undertake formal consultation on any proposed changes to services. The procedure for consultation on modernisation/variation or closure of establishments in KASS was followed as below:

| Process   | Date Action Completed   |
|---|---|
| Obtained agreement in principle from the Cabinet Member for Adult Social Services.  | 14 June 2010  |
| <p>Cabinet member chaired a meeting to discuss the proposals and information packs were sent to those who were invited and who attended:</p> <p>The Chairman of the Adult Social Services Policy Overview Committee (ASSPOSC)</p> <p>Vice Chairman</p> <p>Opposition spokesman</p> <p>Local KCC member(s)</p> <p>Elected members</p> <p>Responsible member of KCC adult social services Strategic Management Team</p> <p>Heads of Services (updated to reflect new title)</p> <p>Area Personnel Manager</p> | <p>10 June 2010</p> <p>10 June 2010</p> <p>10 June 2010</p> <p>28 June 2010</p> <p>14 June 2010</p> <p>10 June 2010</p> <p>14 June 2010</p> <p>14 June 2010</p> |
| <p>Stakeholders were informed in writing and invited to comment: -</p> <p>Users, relatives and carers</p> <p>Head of Service</p> <p>Staff</p> <p>Trades Unions</p>  | <p>Letter sent 14 June 2010.</p> <p>Consultation period ended 1 November 2010 (19 weeks from 21 June 2010).</p>   |

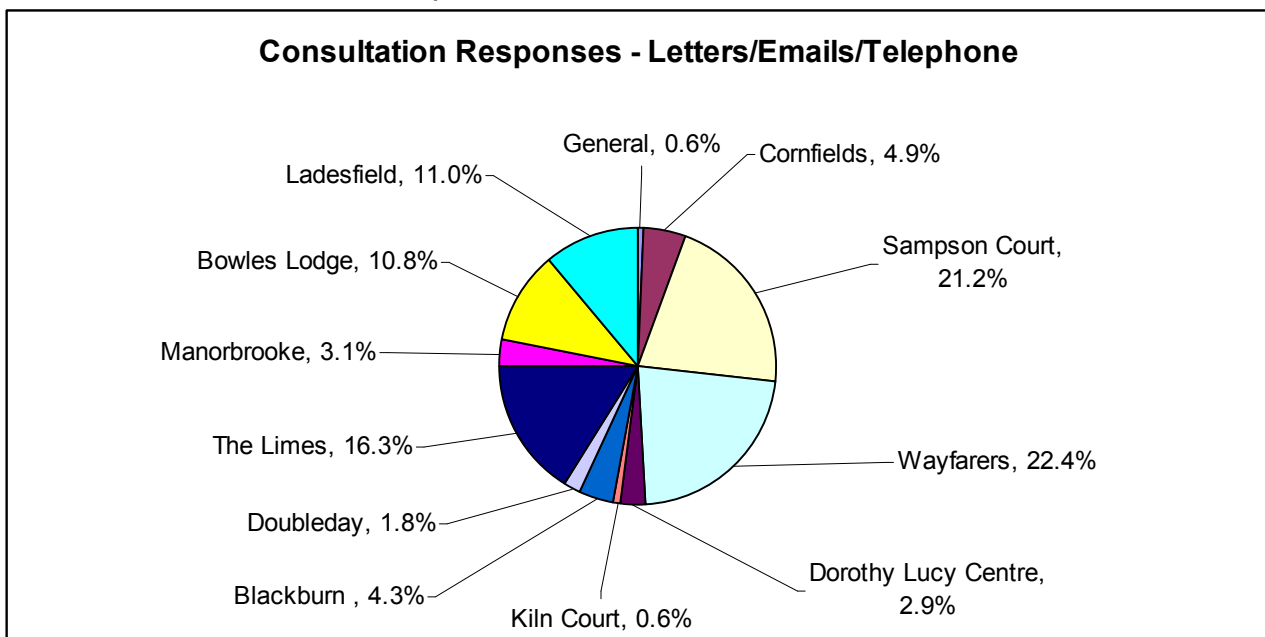
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| <p>Local KCC member(s)<br/> District Council<br/> Parish/Town Council<br/> Relevant NHS bodies<br/> Any other relevant person or organisation and the Local MP</p> | <p>Summary of meetings and correspondence received as a result of the consultation</p> <p>Informed MP and answered questions</p> <p>Held individual meetings and group meetings with local councillors, county councillors, MPs</p>   |
| <p>Directorate issued a Press Release</p>  | <p>The press officer responded to 49 enquiries from the press across the county for all proposals during the consultation period.</p>   |
| <p>A wide range of stakeholder meetings were held</p>  | <p>Meetings with staff and union representatives held on 29 June 2010.</p> <p>Stakeholder Roadshow held for Swale on 20 October 2010</p> <p>Individual meetings with permanent residents and carers offered but not requested for those accessing Kiln Court</p> <p>Meeting with permanent respite users and carers on 29 June 2010.</p> <p>Meeting with day care users/carers on 29 June 2010.</p> <p>East Kent Area Management Team Commissioning Board on 6 September 2010 and 1 November 2010.</p> <p>Presentation at members' briefing on 26 July 2010 on proposals.</p> <p>Presentation to NHS Eastern and Coastal Kent Commissioning Strategy Committee (Swale, Dover and Whitstable PBC) Meeting on 25 August 2010</p> <p>Faversham Community</p> |

|  |   |
|--|---|
|  | Engagement Forum on 6 October 2010<br><br>Adult Social Services Policy Overview and Scrutiny Committee Chair and Vice-Chair visit to Kiln Court 26 October 2010 |
| Report to Cabinet member for decision making on the closure/variation proposal.  | This report dated 30 December 2010  |
| The Cabinet member or the Chairman of the Adult Services Policy Overview Committee will decide if a meeting between him/themselves, KCC Members and consultees is necessary. | In addition to the extensive consultation, these matters will also be discussed at Adult Social Services Policy Overview Committee on 12 January 2011           |
| Instigate any change programme   | From January 2011.  |

(2) The 19-week consultation period for the modernisation of our Older Person's Provision concluded on 1 November 2010. Residents, carers, staff, unions and relevant bodies have been involved with meetings and their views have been considered. Clients and their carers were consulted about the alternative options of service provision.

(3) The overall consultation received **490** letters; most were relating to specific units. A number of letters were copied to the local MP, local councillor, Councillor Gibbens and officers within KCC. Each letter was responded to either by a standard acknowledgement or a more detailed letter responding to any queries or inaccuracies in their statements. Of the total number of responses, **0.6%** related directly to Kiln Court.

The chart below shows the responses for all units consulted on.



(4) A petition was received against the proposal containing 132 signatures.

(5) KCC developed a questionnaire as an additional method for people to contribute to the consultation. This questionnaire was available either by responding directly on line, downloading from the website or through a hardcopy with postage paid.

### **3. Future Service Delivery**

(1) Commissioners in and around the Swale district are developing a Commissioning Needs Schedule for the future. This will include a range of residential care services, long term, short stay, dementia care, intermediate care, day care and other services.

(2) If the decision is made to go ahead with the transfer of services at Kiln Court into a partnership, a set of local service requirements will be included for potential partners to bid against.

### **4. Interest Shown in Partnership Arrangements**

(1) In order to explore the potential for transferring services delivered at Kiln Court into a partnership with a private organisation a market sounding exercise was carried out. This involved writing to all residential care homes in Kent, contacting key housing providers and placing an advert on the South East Business portal and a Prior Information Notice in the official Journal of the European Union inviting expressions of interest.

(2) By the closing date of 26 November 2010, 17 organisations responded to the request for expression of interest for Kiln Court.

(3) Therefore there are 17 organisations that would be included in the next phase. This provides assurance and confidence that a suitable provider could be secured to progress with this proposal.

(4) If the decision is made to go ahead with the transfer of services at Kiln Court into a partnership with a private organisation, there will be a formal procurement process involving all those who have expressed an interest. The objective would be to sign a contract during the 2011-2012 financial year.

(5) Appendix One details the list of organisations that have expressed an interest in a partnership to re-provide the services at Kiln Court. This is a strictly confidential list and is only shared with limited individuals who require it as part of the decision making process.

### **5. Alternative Proposals**

(1) An Evaluation Panel met on 15 November 2010 to review all alternative proposals that had been submitted. The panel had representation from Commissioning, Finance, Contracting and Standards, Provision and Personnel.

(2) One alternative proposal was received for Kiln Court which was the generic Unison Proposal. Unison's feedback called on the county council to withdraw its proposals and retain its role as a direct provider of social care. This has been considered as an alternative proposal and evaluated by a panel of KASS officers. Unison reports that there is extreme difficulty identifying vacancies in independent sector homes of a satisfactory standard. It does not think specialist services should be provided in an untested market

and believes KCC should remain a direct provider in order to help set high standards. The comments from Unison state that the buildings are fit for purpose and that quality of care should be considered above the fabric of the building. Unison argues that reducing council provision reduces choice and that “attrition rates for residents remain high for enforced moves”. Unison argues that KCC’s cost comparisons with the independent sector have not been made like-for-like and do not take into account transaction costs. For the partnership proposals (Blackburn Lodge, Doubleday Lodge, Kiln Court), Unison argue that TUPE Plus should be a minimum expectation, should these be taken forward. The submission also stated that an independent sector operator would drive to reduce costs, that staff would move on and ultimately that quality would be reduced as a result.

(3) The proposal from Unison is largely asking to maintain the status quo, which does not enable KCC to address the four key reasons for change and therefore is not an option that KCC can support. In response to Unisons issues, the panel made the following observations:

- KCC will retain control of the market as a key purchaser of care and standards.
- There are vacancies in homes rated ‘good’ or ‘excellent’ in the independent sector.
- The proposal for the specialist enablement beds at The Limes is for them to be provided at Gravesham Place which has previous experience of this service.
- The buildings will require the investment of significant capital funding that KCC does not have access to – and the long term future of the services could be more uncertain, possibly resulting in emergency closure rather than planned closure.
- There is no statutory duty to directly provide residential care. KCC should be directing resources to further enhance the quality monitoring and contract management responsibilities it has in commissioning services – and providing personal budgets for people who meet KASS eligibility criteria.
- It is KCCs stated long term intention to focus on undertaking a commissioning role with services provided by a plurality of independent sector providers.
- Where moves are necessary, KCC has considerable experience of carefully and successfully moving older people. Each case will be managed and supported on an individual basis to ensure their personal needs are met at an appropriate pace for the individual.
- It is acknowledged that purchasing intermediate care/enablement beds in the independent sector would require a premium above guide price however commissioners are confident they could purchase these beds in the independent sector at less than half the gross unit cost of an in-house enablement bed.

(4) If the proposal to transfer the services at Kiln Court into a partnership with a private organisation was agreed, a key element of the criteria for selecting a partner would be their track record of providing care services and their long term plan for providing both local and good quality services for older people. KCC would also expect them to have experience with TUPE and Pension regulations.

## **6. Issues raised during the consultation**

a) Letter/Email responses:

(1) **We visit care homes regularly and are impressed with the level of care given to the residents and the dedication of staff [at Blackburn Lodge, Doubleday Lodge and Kiln Court]. The homes provide a range of participatory activities. We fully understand and accept the need for the consultation process, for the reasons**

**that you give, and how difficult this is going to become given the financial constraints and financial crisis – but we feel it is essential that the current level of care is not diminished and that residents continue to enjoy the same quality of life, dignity and remain happy.** There is a lot of work to do in confirming the partnership arrangements and contractual detail. However, we would expect and specify that new services continue at the same standards or higher. KCC will retain and develop an ongoing role in quality monitoring and performance management for all contracted services.

(2) **The quality of buildings and the need for ensuite bathrooms should not overshadow the criteria for a happy life.** It is recognised that people who are accessing the services at Kiln Court would prefer that the building and services were to remain as they are, rather than have access to ensuite toilets. However, in time, that will become a minimum expectation for individuals and it is incumbent on KASS that services meet future need and expectation.

b) Questionnaire:

(3) A questionnaire was developed in August and distributed in September. It was designed as an additional method to generate feedback not only from key stakeholders but also members of the general public. The Questionnaire asked questions both about the proposal and what was important to people in the future should they need to access support services. There were a number of opportunities for people to enter free text in addition to answering the questions. Key areas of feedback from the Questionnaires received on the Future of Older Person's Provision were:

(4) **The proposals:**  
42% of people, when asked what they thought of the proposals, answered they had mixed views with 24% responding they thought it was a bad idea and 15% that it was a good idea. In the free text field the greatest number of comments (31) acknowledged that planning for the future was a good idea with 27 people saying they were against the proposal because of the disruption to the clients. Other common comments included support for extra care housing, emphasising the importance of day care and concerns about the quality of care in the independent sector.

(5) **Should KCC run its own homes?**  
59% of respondents stated that the council should continue to run its own homes with 20% disagreeing. The largest number of comments wanted to know why KCC homes cost double the price KCC can buy it in the independent sector. 22 recommended that KCC should review staff contracts and KCC processes to reduce the cost. Other comments included concerns about the quality of care in the independent sector. 8 people criticised the question as leading.

(6) **On what basis should KCC make the decision about the proposals?**  
80% thought quality of care an essential factor, 75% continuity of care for the residents, and 47% felt keeping some homes in the management of KCC was essential. Fewer people thought value for money (175) and freeing up resources to care for more people (132) were essential although these issues were considered very important by 41.5% of respondents.

## (7) Thinking about the future

When asked about their preferred choice of how they would like to receive care most people wanted to be able to live at home for as long as possible followed by a situation similar to extra care housing.

The most important issues to people considering moving into a care home were trained and friendly staff, home cooked nutritious food and being with ones partner. Other factors that were important to people were to remain a respected member of their local community treated with respect and able to exercise choice and control and the ability to have pets.

The top five things that people rated as essential or very important to them when they were older were:

1. help and support available when needed
2. a safe and secure environment
3. being able to maintain links with family, friends and local community
4. ability to remain as independent as possible with own routine and choices
5. accessibility (no steps etc)

## 7. Personnel implications

(1) The affect on staff of the proposal to enter into a partnership will depend on the nature of that arrangement and services. However, the likelihood is that the outcome of the tendering process will involve some sort of transfer of some staff with the services being provided. Therefore, the main consideration will be that the Transfer of Undertakings (Protection of Employment) Regulations or TUPE, protects the transferring employees' terms and conditions of service on the day of transfer. Separate legislation covers certain protections for the pension rights of staff. The new employer may also need to give considerations to issues arising over the "Two Tier Workforce". Where the new employer brings in new recruits to work on the service that transferred they must be employed on "fair and reasonable terms and conditions which are, overall, no less favourable than those of the transferred employees". They must also be offered reasonable pension arrangements.

(2) The staffing information for Kiln Court as at 23 November 2010 is as follows:

| Head count | No. of contracts | No. of Permanent Contracts | No. of Temporary Contracts | No. of Fixed Term Contracts | No. of Full Time Contracts | No. of Part Time Contracts | No. of Relief Contracts | FTE   |
|------------|------------------|----------------------------|----------------------------|-----------------------------|----------------------------|----------------------------|-------------------------|-------|
| 41         | 47               | 43                         | 3                          | 1                           | 4                          | 28                         | 15                      | 21.71 |

## 7. Summary

(1) The proposal for services at Kiln Court to be transferred under partnership arrangements is recommended. There were 17 organisations that expressed an interest in developing a partnership for the services at Kiln Court. Officers are confident that there is enough interest for the procurement of an appropriate partner to move forward to the next stage.

(2) Subject to the agreement to proceed, the next steps will be for further details to be sent to Providers who expressed an interest on the homes, its staffing details, maintenance and supply contracts and the Commissioners requirements for the provision of services. This will be by March 2011. Providers will then be asked to submit outline bids and work to progress the procurement will continue into the summer with an estimated completion date of November 2011.

(3) An initial screening as part of the Equality Impact Assessment was undertaken prior to the consultation on the modernisation proposals. This identified the need for a full Equality Impact Assessment to be undertaken on each proposal, which has now been done. The assessment confirms that the proposals can be delivered in a way that adequately takes account of the individual needs of existing residents and of other service users.

## **8. Recommendations**

(1) The Cabinet member is asked to **consider** the contents of this report and **agree** that services at Kiln Court should be transferred under a partnership arrangement.

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### *Background Documents*

- Government White Paper 'Our Health, Our Care, Our Say' – January 2006
- National Dementia Strategy – February 2009
- Active Lives for Adults 2006-2016
- Closure/Variation Policy for the closure/variation in the service use of a Social Services Establishment
- A Vision for Adult Social Care: Capable Communities and Active Citizens
- Think Local, Act Personal: Next Steps for Transforming Adult Social Care
- Locality Commissioning Strategy