



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**CABINET**

**14 November 2024**

**PROPOSED REDESIGN OF RESIDENTIAL CARE AND DAY  
OPPORTUNITIES FOR OLDER PEOPLE - CONSULTATION RESPONSES  
AND RECOMMENDATIONS**  
(Cabinet Member for Adult Care)

**1. Divisions Affected**

1.1 County-wide

**2. Key Decision**

2.1 This is a Key Decision because it is likely to:

- a) result in the Council incurring expenditure which is, or making savings which are, significant having regard to the budget for the service or function concerned (this is currently defined as £500,000); and
- b) be significant in terms of its effect on communities living or working in an area comprising two or more electoral areas in the County.

**3. Purpose**

- 3.1 To explain the findings of the recent consultation on proposals for the future delivery of residential care and day opportunities which are directly provided by the Council for older people.
- 3.2 To inform Cabinet of the outcome of the Equality Impact Analysis.
- 3.3 To make recommendations to Cabinet about the preferred course of action.

## **4. Information and Analysis**

### **Background and Context**

4.1 On 29<sup>th</sup> April 2024 Cabinet resolved to:

- a) Approve a program of formal public consultation for a period of 12 weeks on two proposed options concerning the future of eleven residential homes and integrated day opportunities for older people, and all of the non-integrated day opportunities for older people; and
- b) To receive a report on the conclusion of the consultation including a full Equality Impact Analysis.

4.2 Cabinet heard on 29 April, that the Council has ambitious plans to support its residents to live their best life in Derbyshire, with research showing that for most people this means living independently in their own home and communities wherever possible. Like Councils across the country, Derbyshire is facing increasing financial pressures that are outside its control including inflation and the national pay award. At the same time, there's been an increase in demand for services, particularly for children and older people. It is essential therefore that the Council conducted a review to ensure that it can provide a sustainable adult social care service for the people of Derbyshire.

4.3 Cabinet agreed to consult on two proposals designed to use its directly delivered resources to meet a gap identified in the care market as set out in Derbyshire's All Age Adults' Housing, Accommodation and Support Strategy 2023-2038 (the Accommodation Strategy). The proposals were to provide specialist dementia residential care with carer support through respite breaks while continuing to work in partnership with health colleagues to provide short term residential beds for people to regain independence and return to their home.

### **4.4 The proposals consulted upon**

#### **Option One**

##### **Residential Homes**

4.4.1 This option was to retain seven of the residential homes directly provided by the Council to provide a countywide offer consisting of community support beds, specialist dementia residential beds, integrated and flexible specialist dementia day opportunities, respite provision for carers of people living with dementia and integrated dementia residential beds with Extra Care.

4.4.2 The homes proposed to be retained under option one were Ada Belfield, Florence Shipley, Lacemaker Court, Meadow View, Oaklands Community Care Centre, Staveley Centre and Thomas Fields.

4.4.3 This option proposed that the Council would cease to directly operate the following nine homes: Bennerley Fields, Briar Close, Castle Court, The Grange,

The Leys, New Bassett House, Rowthorne, Thomas Colledge and Whitestones.

## **Option Two**

### Residential Homes

- 4.4.4 This option was to retain the five residential homes that currently support the jointly provided community support beds which are Ada Belfield, Meadow View, Oaklands Community Care Centre, Staveley Centre and Thomas Fields to provide a countywide offer consisting of community support beds, specialist dementia residential beds, integrated and flexible specialist dementia day opportunities, respite provision for carers of people living with dementia and integrated dementia residential beds with Extra Care.
- 4.4.5 This option would involve the Council ceasing to directly operate the following eleven residential homes: Bennerley Fields, Briar Close, Castle Court, Florence Shipley, The Grange, Lacemaker Court, The Leys, New Bassett House, Rowthorne, Thomas Colledge and Whitestones.
- 4.4.6 In both options it was proposed that the homes retained would offer specialised care supporting people living with dementia on a long-term basis and short-term care for people living in the community requiring overnight and day breaks. Under both options, it was proposed that the homes currently supporting the jointly provided community support beds would continue to do so, representing a 'mixed model' of reablement care alongside long term and respite care for people with dementia.
- 4.4.7 In both options the proposal was that any residential home that the Council ceased to operate would be offered to the open market for sale as a going concern for a set period of time, where possible. If these services were not purchased, they would be required to close, and people would be supported in accordance with the Pledges at appendix 4 to find alternative placements.

### 4.4.8 Day centres

Both of the options consulted upon proposed that the Council cease to directly operate the following day centres: Blackwell Day Centre, Ecclesfold Day Centre, Fabrick Day Services, Hasland Resource Centre, Jubilee Centre, Queens Court, Shirevale Resource Centre and Valley View Day Centre.

## 4.5 The consultation

Given the potential impact of any decision there was a requirement and need to consult interested stakeholders and the general public about the proposals and to analyse all the responses before any decision could be made by the Council in relation to each of the homes and day centres.

- 4.5.1 The formal public consultation ran for a 12 week period between 15<sup>th</sup> May 2024 and 7<sup>th</sup> August 2024 and included well attended service specific sessions with

people attending/ living in the services and their family and carers, public virtual sessions facilitated using Microsoft Teams held in the evenings, drop in library sessions across the County, online questionnaires with paper versions on request and support from the Stakeholder Engagement and Consultation Team to ensure people were supported to share their views in the easiest way possible.

## **Responses to the consultation**

4.5.2 In total, 1742 people responded to the consultation either by attending and contributing to the debate during a virtual meeting or by completing a questionnaire, writing a letter or email or by contacting the Council by phone. Detailed information about the consultation and the feedback received is set out at appendix 2 with analysis set out at appendix 3 and must be read alongside this report.

The Council received seven petitions the details of which are contained within the Stakeholder engagement report at appendix 2.

The Council also received responses from Derby and Derbyshire's Integrated Care Board and Derbyshire Community Health Services (DCHS) who currently jointly operate the community support beds with the Council.

4.5.3 The Improvement and Scrutiny Committee – People, were given the opportunity to consider the consultation and provide its views to Cabinet. On 30<sup>th</sup> October 2024, the Committee considered and noted the public consultation undertaken and the key themes raised.

## **4.6 Analysis**

4.6.1 The feedback received, which has been reviewed and analysed in detail, has been collated into key themes as set out at appendix 3. The main concerns expressed were around the impact on people who may need to move home or who may not be able to attend their day centre, the availability of alternative provision both in terms of quality and quantity and the importance of the availability of respite breaks to support people and their carers in the community. During the consultation the Council also received feedback from its partners in the NHS around the benefits of consolidation under a single operating model and the potential for further integration in the area of short-term assessment and reablement.

4.6.2 Having considered the feedback, the response to each key theme is set out at appendix 3. The feedback received as part of the consultation process, has helped to shape the recommendations in this report.

## **4.7 Approach and vision**

4.7.1 This approach and the recommendations for the Council's directly provided services are based on the vision and priorities set out below and take into

account the feedback gathered during the public consultation. The recommendations support a focus on the following priorities;

- Providing high quality person centred residential care for people with dementia.
- Providing high quality person centred and flexible day and overnight breaks for people living in the community with dementia, available on the same site.
- Further integration with partners in health where to do so would benefit the people of Derbyshire.
- Providing well integrated and effective short-term assessment and reablement.
- Moving from a mixed operating model to a single operating model with a dedicated focus *either* on providing support to people with dementia *or* on providing a short period reablement and assessment.

4.7.2 The aim of the recommendations is to use limited resources to meet areas of need for Derbyshire people with a modernised approach that will make the efficiencies needed and be financially sustainable for the future, enabling the Council to continue to work with older adults in accordance with its statutory duties within the Care Act 2014 and other legislation, to provide a range of social care intervention at a time when demand is increasing and resources are stretched.

#### Providing high quality person centred residential care for people with dementia

4.7.3 A focus on providing residential care for people living with dementia, offering long term care in appropriate environments with remodeled and appropriately trained staff teams, to meet complex needs related to a dementia diagnosis, enables the Council to meet an identified need for the people of Derbyshire.

4.7.4 The Market Position Statement - Community and Accommodation-based Support for Older People 2024 – 2025 (the Market Position Statement), outlines the relevant information and analysis of the local adult social care market and sets out key pressures for Derbyshire within the home care, extra care, nursing and residential care market. We can see from this analysis that modelling suggests fewer people are choosing, and will choose, to live in residential care in the future as they want to stay in their own homes for as long as possible. As people are choosing to stay at home for as long as possible, when people are entering care homes, it is recognised and accepted that they have more acute needs, therefore we are seeing a growth in demand for nursing care and residential care for people with complex needs, including dementia, and this is specifically identified as a requirement in the Market Position Statement.

4.7.5 The modelling referred to above aligns with the expressed wishes of the majority of people consulted in Derbyshire about their future care needs which was that they wanted to be cared for in their own home for as long as possible. To ensure it can continue to support people in their own homes, the Council has, as of 1st April 2024, introduced a new framework contract for provision of home care which has increased the available home care capacity in the county with a doubling of available providers. The impact of this, coupled with the Council's remodeled Short-Term Assessment and Reablement Team, will

mean that more people can be supported to live at home for as long as possible, accessing residential care when they have more complex health and social care needs, in line with national trends.

- 4.7.6 The need to support people with dementia and their families is an important consideration in Derbyshire. Data suggests that the total number of people over 65 potentially living with severe dementia across Derbyshire increases from 9,698 to 14,190 by 2030, so it is essential that the right support is available for this group people and their carers.
- 4.7.7 It is understood that there will always be a need for residential care that supports people whose care requirements are related to mental and physical needs, unrelated to dementia. The Council has no legal requirement to provide these services directly but rather to promote the efficient and effective operation of the market as a whole. These services are and can be provided by private and voluntary sector organisations and Derbyshire is currently well served by private providers of residential care. The Council is responsible for influencing and driving the pace of change for the whole market, leading to a sustainable and diverse range of care and support, continuously improving quality and choice, and delivering better, innovative and cost-effective outcomes that promote the wellbeing of people who need care and support. In doing so, the Council must analyse current and likely future demand.

Providing high quality person centred and flexible day and overnight breaks for people living with dementia, available on the same site

- 4.7.8 Through supporting flexible day opportunities and overnight breaks for people living with dementia, providing meaningful activity and engagement based on individual needs, in a safe and supportive environment, the Council can continue to support people and their families maintain caring arrangements in the community. This enables people to stay at home for as long as possible, supporting the strategic vision set out by the Council and its partners through the Joined-Up Care Derbyshire Partnership.
- 4.7.9 During the consultation carers repeatedly highlighted the importance of accessing breaks from their caring role and this was one of the key themes to come from the consultation. Carers often described access to these breaks as being essential for enabling them to continue in their caring role.
- 4.7.10 The importance of the availability of good respite care has been highlighted in other engagement that has been undertaken. Following extensive engagement with the people of Derbyshire, the All-Age Adults Housing, Accommodation and Support Strategy 2023 – 2038, sets out the strategic priority of the Council to support people to live as independently as possible in a place they call home in accordance with their wishes. Supporting caring arrangements for people in the community is an important part of fulfilling that joint vision.
- 4.7.11 The Carers Strategy Delivery Group led by Derbyshire County Council and the Derby and Derbyshire Integrated Care Board, has developed a Commissioning Strategy for Derbyshire 2020-2025, which was last refreshed in 2022. When

developing this strategy, carers told system partners that one of their top three priorities, from a survey undertaken in 2021/22, was 'a break'. Within this strategy partners made a pledge to improve carer health and wellbeing and that partners will continue to develop new and effective ways of providing carers with a break from caring.

- 4.7.12 The need for effective respite care was highlighted again through engagement carried out in spring 2024 by partners responsible for delivering Derbyshire's Dementia Pathway. The provision of effective respite care and flexible breaks for carers was identified as a key theme by those responding to the survey. The recommendations as set out would enable the Council to support the system priority of offering flexible overnight and day breaks for people living in the community with dementia and supports this system priority.
- 4.7.13 The Council is ideally placed to offer flexible and reliable respite service from its homes which currently offer an integrated day service as it can offer a dedicated and ringfenced service to provide overnight breaks for people living with dementia on the same site as day opportunities and we know this will benefit the well-being of the person and their carer/s due to same site provision best supporting familiarity for the person.

#### Residential Services/ Integrated Day Centres - Recommendations

- 4.8.1 In order to deliver a focus on specialist dementia care and meet the efficiencies associated with this review, the Council cannot continue to directly provide the same number of residential services. Derbyshire County Council is currently one of the largest local authority providers of residential services for older people in the country and like other authorities, the Council must ensure that it is able to support people who need it most in a sustainable way. This has become increasingly challenging in light of increasing demand for services and the significant financial pressures faced by Council's up and down the country.
- 4.8.2 It is therefore recommended that the Council permanently ceases to operate Briar Close, Castle Court, The Grange, Lacemaker Court (which includes an integrated day centre), The Leys, New Bassett House, Rowthorne and Thomas Colledge.
- 4.8.3 It is recommended that these residential homes be placed on the open market for a period of eight weeks, to be sold as going concerns. If it is not possible to sell the homes as a going concern, current residents will be supported to find suitable and reasonable alternative accommodation in accordance with the Pledges at appendix 4 with the outcomes for the buildings considered by Property Services in accordance with the Council's usual processes under the scheme of delegation.
- 4.8.4 It is recommended that where the Council receives offers for any of the care homes, the offer be considered by the Executive Director for Adult Social Care, in consultation with the Director of Finance and the Director of Property, who will determine whether the following criteria have been met:

- i) The company has proven experience running registered residential care home/s to a 'Good' or 'Outstanding' standard as rated by the Care Quality Commission for a minimum of three years.
- ii) The company agrees to sign a legal agreement ensuring that the current long-term residents can continue to reside at the home at no extra cost to the residents.
- iii) The offer to purchase represents best use of public money and allows the Council to meet the efficiencies linked to this review.
- iv) The company can demonstrate sound financial status - to be determined by the Director of Finance.
- v) It is possible to complete the sale within a reasonable timescale to be determined by the Executive Director of Adult Social Care in consultation with the Director of Finance.

4.8.5 Where a determination is made by the Executive Director for Adult Social Care, in consultation with the Director of Finance and the Director of Property that the criteria set out at paragraph 4.8.4 are not met, the current residents would be supported to find reasonable and suitable alternative accommodation in accordance with the Pledges at appendix 4 and the home would be closed on a permanent basis with the outcomes for the buildings considered by Property Services in accordance with the Council's usual processes under the scheme of delegation.

4.8.6 Before proceeding with the permanent closure of any of the homes, the Council shall ensure that suitable and reasonable alternative arrangements have been made for all of the residents at each of the homes which meet the Council's duties under the Care Act 2014 and any other relevant legislation or guidance. This will include a review and/or reassessment of care needs and robust transition plan.

#### Reasons for these recommendations

4.8.7 The rationale for using the limited resources available to prioritise the provision of long term and respite care for people with dementia is set out at paragraphs 4.7.3 - 4.7.13.

4.8.8 With the exception of Lacemaker Court, the services referenced at paragraph 4.8.2 do not have an integrated day centre and therefore do not afford the Council the opportunity to deliver to the vision of flexible day opportunities and overnight respite on the same site. Whilst Lacemaker Court includes an integrated day centre, it has 16 beds and is situated in Erewash which shares a border with Amber Valley and is ten miles from Florence Shipley which offers 32 beds and a day service. The Council does not recommend that continuing to operate both of these services itself, represents effective use of its resources given their proximity and Florence Shipley which offers greater opportunity for the Council to deliver to the model set out above.

4.8.9 As demonstrated at appendix 5, there are sufficient vacancies within the local area of each of these eight residential homes to ensure that all of the current



residents can be supported to find suitable alternatives should that be their choice or should it not be possible to sell any of the homes as going concerns.

4.8.10 Marketing the homes in the way described at paragraph 4.8.3 – 4.8.4 affords the private and voluntary sector the opportunity to purchase them individually or as a group, allowing continuity of care for the current residents, whilst potentially delivering homes under a dual nursing registration which is something the Council is not legally able to do itself and for which we know, from the Market Position Statement, there is high demand for across the county.

#### 4.9 Non-integrated day centres – Recommendations

4.9.1 In order to deliver a focus on specialist dementia care and reablement and meet the efficiencies associated with this review, the Council cannot continue to directly provide the same amount of day services.

4.9.2 Having carefully considered the feedback about how vital regular and consistent breaks are for people living in the community and their family, the Council considers that the retention of three non-integrated day centres in addition to a number of integrated day centres enables it to meet its priority of supporting people to remain in their own home for as long as possible. The recommendations will result in the Council retaining Ecclesfold, Shirevale and Hasland non-integrated day centres for this purpose.

4.9.3 It is recommended that the Council ceases to operate the following five non-integrated day centres: Blackwell Day Centre (not currently operational), Fabrick Day Services (operational two days per week), Jubilee Centre, Queen's Court, and Valley View Day Centre (not currently operational). The people currently using the Jubilee Centre, Queen's Court and Fabrick, would be supported in accordance with the Pledges at appendix 6 to find alternative support following a review. The outcomes for the buildings would then be considered by Property Services in accordance with the Council's usual processes under the scheme of delegation.

4.9.4 If these recommendations are approved, the Council will also cease to operate the integrated day centre at Lacemaker Court in accordance with the process set out at paragraph 4.8.4.

#### Reasons for these recommendations

4.9.5 The rationale for using the limited resources available to prioritise the provision of respite care for people with dementia is set out at paragraphs 4.7.3 - 4.7.13.

4.9.6 Blackwell Day Centre and Valley View Day Centre are not currently operational as a result of a lack of demand. Ceasing to operate these services will not therefore impact on any current service users. Fabrick Day Centre is operational on two days per week rather than five days as a result of reduced demand.

4.9.7 By retaining Ecclesfold in the High Peak, those currently attending Queen's Court and the Jubilee Centre would have a local alternative available should that be considered suitable following review. Those currently attending Fabrick day service would have a local alternative available at Shirevale should that be considered suitable following review.

4.9.8 People currently using any of the day services that may cease to be operated, have a range of eligible needs which can be met in different ways. Through individual support and engagement with community connectors, the Council will work with people and their families to look at the range of suitable alternatives which could include options such as PVI provision, retained Council run day centres, direct payments, home care and shared lives. The Council will work with people to reduce disruption and stress caused by any changes to support, through individual reviews and robust transition plans in accordance with the Pledges referred to at Appendix 6.

#### 4.10 Impact on people using the services

4.10.1 If approved, the recommendations may require people in the eight homes listed at paragraph 4.8.2 move home on a permanent basis and people currently using the day services listed at paragraph 4.9.3 source alternative day provision. The Council recognises this will cause disruption and concern for people and their families, as demonstrated by the number of responses to the consultation on this theme. Our commitment is to work together with people and their families to minimise the impact as much as we possibly can. The Council has experience of successfully supporting the relocating residents and sourcing of alternative day service provision, through the adherence to the commitments made in the Pledges set out at appendices 4 and 6 and the Council will take account of the financial, emotional and practical impact identified in feedback.

4.10.2 Through careful and detailed planning with people and their families, suitable alternatives can be found with the aim of as little disruption and distress as possible. The Council recognises the importance of ensuring that families and friends can continue to maintain contact and that friendship groups remain connected. The Council understands how important this will be in providing people with the support and comfort they need, particularly whilst settling into new accommodation. The Council is satisfied that there is reasonable and suitable alternative residential provision and alternative day support for people who may require it. Any cost implications for families will be carefully considered and fully appraised and the Council will ensure, within reason, that people do not incur any additional costs through moving to a new provider. Adult Social Care will ensure anyone who is asked to source alternative care has as much choice as possible available to them with discussions around preferences and careful planning being an essential part of the process.

4.11 Further integration with partners in health where to do so would benefit the people of Derbyshire

4.11.1 Nationally, integrating the delivery of care for local people between health and social care has been at the heart of the policy agenda for a number of years. The Council and Derbyshire Community Health Service are already working closely together to deliver rehabilitation and reablement by using multi-professional assessments and by sharing staffing skills, training and development. We want to achieve further integration where it benefits local people with the aim of enabling system partners to manage increasing demand for services into the future.

#### Section 75 Agreement - Recommendation

4.11.2 In light of the strategic vision of delivering well integrated assessment and reablement services and having considered the feedback provided by partners during the consultation, the Council seeks approval to jointly consult on whether to enter into a formal partnership via a Section 75 Agreement with Derbyshire Community Health Services. Such an agreement would allow DCHS and the Council to jointly deliver a range of reablement services aimed at helping people remain independent at home for as long as possible. This arrangement may include any of the services that are remodeled to provide community support beds under a single operating model (depending upon the outcome of this report and any subsequent consultation), and/ or any other related Council service that is likely to see improved outcomes through these arrangements.

4.11.3 The NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 provide that a Section 75 Agreement such as that proposed may not be entered into unless the partners have consulted jointly with those who may be affected by such an arrangement. This report therefore seeks approval to commence consultations jointly with DCHS with stakeholders about this proposal, including engaging with individuals who may be using the relevant services now or who may potentially need the service in the future. Details of the proposed consultation are set out at section five of this report.

#### Reasons for recommendation

4.11.4 We know the benefits for people of conducting a dynamic, multidisciplinary assessment outside the acute hospital setting, with joint consideration given by health and social care to a person's ability to return or remain at home. We know outcomes for people who are able to leave hospital when they are medically fit to do so, are significantly improved. By working more closely together, ideally with a shared management structure, Adult Social Care and the NHS anticipate the benefits of joint working will be enhanced.

4.11.5 For example, working closely together will support partners to monitor and review the outcomes for individuals accessing community bed based settings more efficiently and effectively. This way of working would also enable social care outcomes to be more embedded and supported by healthcare organisations.

4.11.6 Working more closely together, would support partners to provide clear and consistent information for people leaving hospital, or who are at risk in their own

homes and reduce the risk of duplication. We know from feedback that people often find they are required to 'tell their story', to different professionals and we want this to be a more seamless journey for people. We know, operated well, this model will reduce pressure on health and social care budgets in the future, with a clear joint interest across the system.

4.12 Providing effective short-term assessment and reablement and moving from a mixed operating model to a single operating model with a dedicated focus *either* on providing support to people with dementia or on providing a short period of reablement and assessment

4.12.1 A focus on delivering a well-integrated and effective short-term assessment and reablement service alongside system partners is an important strategic priority for the Council.

4.12.2 We know that in 2022/23, across Derby and Derbyshire's combined footprint, 75% of people stayed in hospital longer than was ideal. This illustrates, the importance of investing in and focusing on flow through hospitals, supporting people outside the acute setting, through an intensive period of reablement to regain as much independence as possible following a hospital admission. The same principle applies to the avoidance of hospital admission where it is not required medically.

4.12.3 During this consultation, the Council received responses from Derby and Derbyshire's Integrated Care Board and Derbyshire Community Health Services (DCHS). Both partners welcomed the Council's intention to include a focus on reablement through the continued delivery of community support beds as this helps deliver the joint strategic aim to support people in their homes for as long as possible. Both partners highlighted the operational difficulties presented when delivering a mixed model of reablement alongside long term dementia care and respite care citing the following reasons:

- *Having long and short stay residents in the same facility could reduce the ability of the staff team to focus on creating a reablement, recovery and rehabilitation environment and ethos for those people needing very short-term care interventions.*
- *Having a wide mix of needs in a setting may create tension in terms of the appropriate mix of residents and the support that staff can therefore provide, especially for those people who may have complex long-term needs, or need very intensive short-term interventions and rehabilitation.*
- *The skill set for reablement, and rehabilitation is distinct when compared to that of providing long term care and it is difficult to see how this can be easily flexed and maximised by having settings providing multiple purposes.*

4.12.4 Both partners provided feedback that a single operating model, across fewer sites, with greater integration between health and social care, to deliver

effective assessment and reablement care would serve people better as a result of more people being able to access the service due to the efficiencies created by operating more beds from fewer sites.

- 4.12.5 While there are some benefits to delivering a mixed model across a greater number of sites, in terms offering a wider geographical spread, it does present operational challenges, with the competing priorities of the long-term residents and those who are using the community support beds, at times creating difficulties from a staffing perspective. Operating a mixed model means that colleagues are asked to specialise in providing reablement and rehabilitation as well as delivering long term care which means they are not always able to focus on a specific area of care, diluting the impact of any specialist training and focus in either of those areas. Enhancing the focus on intensive reablement at those settings providing community support beds, will not only increase how effective the service is in terms of reducing needs into the future it will also enable more people in Derbyshire to access this service and would equally have benefits for colleagues providing support for people with dementia, allowing them to focus on the training and further developing the skill set required for this work
- 4.12.6 We know that reducing the number of sites from which the community support beds operate will achieve economies of scale and this is an important factor when considering the best use of public resources as well as the benefits cited above for people using the service and colleagues. During the consultation DCHS highlighted that reducing the number of care homes from which community support beds are operated means that healthcare colleagues are better able to utilise therapy and community nursing staff at a time when there is higher demand on these services than ever before, stretching scarce resources further. By operating a single model, partners would achieve efficiencies of scale and enable colleagues, ideally under one management structure, to support more people to regain as much independence as possible.

#### Single Operating Model - Recommendations

##### 4.12.7 Bennerley Fields

It is recommended that the Council permanently ceases to operate long term residential care at Bennerley Fields. This would enable the entire building to be repurposed for the provision of community support beds under a single operating model. The current long-term residents would be supported to find suitable and reasonable alternative accommodation in accordance with the Pledges at appendix 4.

#### Reasons for this recommendation

- 4.12.8 The rationale for prioritising effective reablement via a single operating model is set out at paragraphs 4.12.1 - 4.12.6.

4.12.9 Bennerley Fields has been identified by system partners and the Council as being ideally situated geographically to support well integrated assessment and reablement and is essential to the model operating well, given its proximity to existing healthcare settings. Provided the recommendation to cease to operate long term care at Bennerley Fields is approved, the Council considers that this site is most appropriately used to support its CSB offer under a single operating model. As well as being ideally placed geographically for this purpose, the environment within the building affords the opportunity to provide support in dedicated rehabilitation and therapy rooms.

#### 4.13 Remaining residential care homes – Recommendation

4.13.1 If the recommendations in 4.8.2 – 4.8.6 are approved the following residential care homes and integrated day centres, where relevant, will remain operational pending the outcome of the proposed further consultation (as set out below): Ada Belfield, Florence Shipley (including IDC), Meadow View (including IDC), Oaklands Community Care Centre (including IDC), the Staveley Centre (including non-operational IDC), Thomas Fields and Whitestones. The focus of these services will be upon providing specialist long term care, flexible day and overnight breaks for people with dementia and their carers, in addition to well-integrated short-term assessment and reablement services, to avoid hospital admission and maximise flow through hospitals. The rationale for this focus is set out at paragraphs 4.7.3 – 4.7.13 and 4.12.2 – 4.12.3.

4.13.2 It is recommended that Cabinet approve a further consultation around the future use of these services the details of which are set out at appendix 7.

#### Reasons for this recommendation

4.13.3 The Council considers that focusing its services on the provision of long-term residential care and day and overnight breaks for people living in the community with dementia and intensive assessment and reablement represents an effective way to meet the identified need in the market for the reasons which are set out above. Further consultation is required in order to determine which of the remaining settings should be retained and for what purpose.

4.13.4 In order for Cabinet to make a decision about which of the remaining homes are best able to support the approach and vision described above, further consultation is required at Ada Belfield, The Staveley Centre and Thomas Fields. The details of the proposed consultation and the options are set out at appendix 7.

### **5. The consultation process**

5.1 If the recommendations in this report are approved, a formal public consultation, including with current residents and their families and carers, at Ada Belfield, The Staveley Centre and Thomas Fields would commence on 2<sup>nd</sup> December 2024 for a period of 6 weeks, ending on 12<sup>th</sup> January 2025.

- 5.2 We would support current residents and anyone using regular respite and their carers to understand and engage with the consultation process and the potential implications for them by offering support to participate in the consultation via a one-to-one interview, where requested.
- 5.3 Whilst the Council considers the two options set out at appendix 7 to be the most viable options at this stage, the views of the residents, their families and other stakeholders will be sought prior to any decision being taken with regard to the proposed redesign. The Council will keep an open mind as to whether these options remain the most viable throughout any approved consultation exercise and will need to evaluate any responses received to such a consultation in order to ascertain whether further viable alternative options have been put forward or give the Council reason to reconsider whether other options than the two set out at appendix 7 represent a more suitable alternative.
- 5.4 If approved, a full Equality Impact Analysis ('EIA') will also be prepared during the consultation process reflecting issues that are raised. This will be reported in full to Cabinet and a full copy of the EIA made available to Members in order that any adverse impact along with any potential mitigation can be fully assessed. Cabinet members will be reminded at that time of the need to have careful regard to the conclusions of the EIA.
- 5.5 If permission to consult on the options set out at appendix 7 is given, and if any of the proposals set out in the report, or any other proposal materialising following a thorough consultation, are approved, any impacted residents and their families would be supported in accordance with the Pledges at appendix 4. The Council understands how important this would be in providing people with the support needed during any period of change.
- 5.6 As outlined in paragraphs 4.11.2 – 4.11.6 above, if the recommendations in this report are approved, a separate joint formal consultation with system partners, colleagues and the general public for a period of 6 weeks will be undertaken to explore entering into a Section 75 Agreement with DCHS, to jointly deliver a range of reablement services aimed at helping people remain independent at home for as long as possible and improving outcomes more generally. This will commence on 2<sup>nd</sup> December 2024 and end on 12<sup>th</sup> January 2025.
- 5.7 We also propose engaging informally with colleagues working in any impacted service as part of the consultation exercise. Such engagement will encourage all colleagues to participate in the consultation and to share their experiences and views on the proposals. We will also offer support through the process, engaging more formally with the staff of any home which may eventually cease to operate by the Council.
- 5.8 The Stakeholder Engagement and Consultation Team (SECT) would arrange and coordinate a series of face-to-face consultation meetings for people using the services and their carers.

- 5.9 The SECT team would arrange and coordinate face to face and virtual sessions. Interested parties and members of the public would be invited to book a place via publicity and communications.
- 5.10 The SECT team would develop a questionnaire for participants to complete. The questionnaire would be reflective of the proposal/s and give opportunity for participants to comment and give feedback on their views. The questionnaire would be placed on DCC's Have Your Say webpage where consultees would be encouraged to visit and complete a questionnaire.
- 5.11 All stakeholders would also be given the opportunity to give their views by sending a letter, via email to: [ASCH.Tell.AdultCare@derbyshire.gov.uk](mailto:ASCH.Tell.AdultCare@derbyshire.gov.uk) or via telephone contact for SECT. Stakeholders would be given the opportunity to either email a message or leave a telephone voice mail requesting a call back from a member of SECT. SECT members would then record any feedback via telephone interviews and/or assist participants to complete an online questionnaire.

## 6. **Alternative Options Considered**

Briar Close, Castle Court, The Grange, Lacemaker Court (including an integrated day centre), The Leys, New Bassett House, Rowthorne, and Thomas Colledge

6.1 Continue to operate and maintain the current operating model across these services. Given the current budget position and the projected future demand this is not sustainable for the Council and is discounted on the basis it is not a viable option.

Blackwell Day Centre, Fabrick Day Services, Jubilee Centre, Queens Court, and Valley View Day Centre

6.2 Continue to operate and maintain the current operating model across these services. Given the current budget position and the projected future demand this is not sustainable for the Council and is discounted on the basis it is not a viable option.

Bennerley Fields

6.3 Maintain the current operating model across this service. Given the current budget position and the projected future demand this is not sustainable for the Council and is discounted on the basis it is not a viable option.

6.4 Cease to operate Bennerley Fields and put the home on the market for a period of 8 weeks to sell as a going concern. This is discounted on the basis that the home is ideally situated within the County to enable the Council and its partners in DCHS to support a well-integrated assessment and reablement service under a single operating model.

Ada Belfield, Florence Shipley, Meadow View, Oaklands Community Centre, the Staveley Centre, Thomas Fields and Whitestones



6.5 To determine the future provision of accommodation for older people in Ada Belfield, Thomas Fields and Staveley without conducting a further public consultation exercise. This will not be pursued as a viable option because proposals to make significant changes in service provision require consultation with the public and those directly affected, including service users, staff and carers and relevant stakeholders. This would be unlawful and would expose the council to legitimate legal challenge while at the same time undermining the quality of its decision-making.

6.6 Maintain the status quo in the seven homes referred to above. Given the current budget position, future demand, potential for efficiencies and the benefits of a closer working relationship with system partners arising from a single operating model, this has been discounted on the basis this is not a viable option.

6.7 Consult on more or different potential models or changes. The Local Authority is entitled to consult over its chosen proposed model but should not limit their consideration of alternative models or changes. The consultation exercise will therefore facilitate the ability for responses to be provided in this regard.

#### All residential homes and non-integrated day centres

6.8 Consideration was given to the two alternative options which were consulted upon in accordance with the Cabinet Report dated 29 April 2024. Whilst these were considered to be viable options, following careful analysis of feedback during the consultation, the recommendations and proposals contained within that report are no longer considered to represent the best and most efficient use of public resources in enabling the Council to offer a sustainable suite of services which reflect the need as set out Derbyshire's All Age Adults Housing, Accommodation Support strategy and the Market Position Statement refreshed in 2024 and accords with the vision of greater integration between health and social care with an emphasis on reablement.

## **7. Implications**

Appendix 1 sets out the implications that have been considered in the preparation of the report, including how the Council will fulfill its obligations under the Care Act 2014 to:

- promote individual well-being (section 1 (1)),
- assess individual needs for care and support (section 9 (1)), and
- consider how best to meet the eligible needs of those individuals requiring care and support in the area (sections 8 and 13 (3))

## **8. Background Papers**

Cabinet Report – Outcome of the Consultation on the Future of Direct Care Homes for Older People 05 May 2022

Cabinet Report – Proposed Redesign of Residential Care and Day Opportunities for Older People (Adult Care) 29 April 2024.

Derbyshire’s All Age Adults’ Housing, Accommodation and Support Strategy 2023-2038 (the Accommodation Strategy)

The Market Position Statement - Community and Accommodation-based Support for Older People 2024 – 2025 (the Market Position Statement),

Derbyshire Carers Strategy – A Commissioning Strategy for Derbyshire 2020-2025

Major change and closure guidance – Accommodation and support for older people – DCC Adult Care

## **9. Appendices**

- 9.1 Appendix 1 - Implications
- 9.2 Appendix 2 – Consultation report on the proposed redesign of residential care and day opportunities for older people
- 9.3 Appendix 3 – Analysis, response to feedback and recommendations
- 9.4 Appendix 4 – The Council’s Pledges to Residents
- 9.5 Appendix 5 – Vacancy Information
- 9.6 Appendix 6 – The Council’s Pledges to people using day services
- 9.7 Appendix 7 – Details of further consultation
- 9.7 Appendix 8 – Equalities Impact Assessment – Residential
- 9.8 Appendix 9 – Equalities Impact Assessment – Day Services
- 9.8 Appendix 10 – Indicative timeline for staff engagement

## **10. Recommendation(s)**

Following consideration of this report, the full report on the consultation responses received at appendix 2; the detailed analysis of the feedback which is set out at appendix 3, the content of the Equality Impact Analysis at appendices 8 and 9 and all other appendices, it is recommended that Cabinet:

- 1) notes the intention of the Council to focus its directly provided services upon providing specialist long term care, flexible day and overnight breaks for people with dementia and their carers, in addition to well-integrated short-term assessment and reablement services, to avoid hospital admission and maximise flow through hospitals.

- 2) approves the cessation of long term and respite care at the following residential care homes: Briar Close, Castle Court, The Grange, Lacemaker Court (including an integrated day centre), The Leys, New Bassett House, Rowthorne and Thomas Colledge in accordance with the following process:
  - (i) the homes listed be offered for sale to the open market as a going concern for a period of up to eight weeks.
  - (ii) where the Council receives offers for any of the care homes, authority is delegated to the Executive Director for Adult Social Care, in consultation with the Director of Finance and the Director of Property, who will determine whether the criteria set out at paragraph 4.8.4 of the report have been met.
  - (iii) where a determination is made that the criteria have been met, the option of selling the homes as going concerns authority be delegated to the Director of Property to pursue and make arrangements for sale, should the value exceed £500,000.
  - (iv) If a sale falls through, the current residents be supported to find reasonable and suitable alternative accommodation; and steps (v), (vi) and (vii) below will be followed.
  - (v) where a determination is made by the Executive Director for Adult Social Care, in consultation with the Director of Finance and the Director of Property that the criteria set out at paragraph 4.8.4 are not met, the current residents be supported to find reasonable and suitable alternative accommodation and the care home will permanently close;
  - (vi) before proceeding with the permanent closure of any of the homes, the Council shall ensure that reasonable and suitable alternative arrangements have been made for all of the long-term residents at each of the homes which meet the Council's duties under the Care Act 2014 and any other relevant legislation or guidance.
  - (vii) once any care home is permanently closed, the outcomes for the buildings are considered and implemented by Property Services as business as usual in accordance with the Council's scheme of delegation. The Director of Property in consultation with the relevant Cabinet Member shall be able to dispose of the property where the value exceeds £500,000.
- 3) approves the cessation of long term and respite care at Bennerley Fields, enabling the repurposing of the entire building for the provision of community support beds, on the basis that the Council shall ensure that reasonable and suitable alternative arrangements have been made for all of the residents currently living at Bennerley Fields which meet the Council's duties under the Care Act 2014 and any other relevant legislation or guidance.

- 4) approves the permanent closure of the following day centres for older people: Blackwell Day Centre, Fabrick Day Services, Jubilee Centre, Queens Court and Valley View Day Centre on the basis that before proceeding with the permanent closure of any Day Centre alternative offers of support have been made to people currently using the services in accordance with the Council's obligations under the Care Act and any other relevant legislation or guidance.
- 5) approves that once day centres are closed, the outcomes for the buildings are considered and implemented by Property Services as business as usual in accordance with the Council's scheme of delegation. The Director of Property in consultation with the relevant Cabinet Member shall be able to dispose of the property where the value exceeds £500,000. Should the buildings be leased by the Council, the Director of Property in consultation with the relevant Cabinet Member shall be able to dispose of the leasehold interest should the value of the interest being surrendered is over £100,000.
- 6) notes that a formal consultation with staff and trade unions representing staff affected by any closures will commence and every effort will be made to assist employees in seeking suitable alternative roles to minimise the number of redundancies.
- 7) approves the required program of consultation for a period of 6 weeks to explore entering into a Section 75 Agreement with Derbyshire Community Health Services, an NHS Foundation Trust, to jointly deliver a range of reablement services aimed at helping people remain independent at home for as long as possible.
- 8) notes that it will receive a further report following the conclusion of the consultation process, including an Equality Impact Analysis
- 9) approves the program of consultation for a period of 6 weeks on the two proposed options set out at appendix 7 concerning the delivery of care provided at Ada Belfield, the Staveley Centre and Thomas Fields.
- 10) notes that it will receive a further report following the conclusion of the consultation process, including an Equality Impact Analysis.

## **11. Reasons for Recommendation(s)**

- 11.1 In order to deliver a focus on specialist dementia care and intensive periods of assessment and reablement and meet the efficiencies associated with this review, the Council cannot continue to directly provide the same number of residential and day services. Derbyshire County Council is currently one of the largest local authority providers of residential and day services for older people in the country and like other authorities, the Council must ensure that it is able to support people who need it most in a sustainable way.
- 11.2 The Council has no legal requirement to provide these services directly but rather to promote the efficient and effective operation of the market as a whole.

These services are and can be provided by private and voluntary sector organisations and Derbyshire is currently well served by private providers of residential care.

- 11.3 There is sufficient capacity in the market to provide any person impacted by the Council ceasing to operate a service, with suitable alternative provision.
- 11.4 The reasons to focus on directly providing residential care for people with dementia are set out at paragraphs 4.7.3 – 4.7.7.
- 11.5 The reasons to focus on directly providing flexible day and overnight breaks for people living in the community with dementia are set out at paragraphs 4.7.8 – 4.7.13.
- 11.6 The reasons to focus on further integration with partners in health where to do so would benefit the people of Derbyshire and to seek approval to conduct a joint consultation with DCHS are set out at paragraphs 4.11.4 – 4.11.6.
- 11.7 The reasons to focus on directly providing effective short-term assessment and reablement and moving from a mixed operating model to a single operating model with a dedicated focus *either* on providing support to people with dementia or on providing a short period of reablement and assessment are set out at paragraphs 4.11.2 – 4.11.6. In order to make decisions about the operating model at the remaining services a further consultation is required details of which are set out appendix 7 which is why the Council seeks permission to conduct a further consultation about the operation of the remaining services.

## **12. Is it necessary to waive the call-in period**

**13.** No

## Glossary

### Key definitions

**Community support beds** - the community support beds are jointly operated with Derbyshire Community Healthcare Service (DCHS) and are for people who require a short period of assessment and reablement within a residential setting following hospital admission and are also used to prevent people going into hospital. There are currently 78 community support beds funded by Derby and Derbyshire's Integrated Care Board.

**Integrated day centre** –a day centre operated on the same site as a residential care home.

**Non-integrated day centre** - a day centre which is not operated on the same site as a residential home.

**Integration with system partners** – where the Council and its partners from other organisations work closely together, either through the development of effective partnership working operationally or through joining together and working within the same policy, governance and management framework under a more formal partnership agreement.

**Mixed operating model** – where long term residential care and respite care is delivered within the same setting as short-term assessment and intensive reablement for people who have recently been discharged from hospital, before they go home, or to avoid the need for them to be admitted to hospital in the first place.

**Single operating model** - where long-term residential care and respite care and short-term assessment and intensive reablement are delivered from separate sites with the buildings used either for the exclusive use of short term reablement and assessment or long-term care and overnight and day breaks for people with dementia.

**Section 75 Agreement** – section 75 of the NHS Act 2006 allows agreements to be made between partners (local authorities and the NHS) that set out arrangements for pooling resources and delegating certain NHS and local authority functions to the other partner(s) to lead to an improvement in the way those functions are exercised. The regulations governing these arrangements stipulate that partners must conduct a joint consultation with people and organisations that appear to them to be affected by such arrangements.

## **Appendix 1**

### **Implications**

#### **Financial**

- 1.1 The 2024-25 Approved Revenue Budget includes two efficiencies relating to a review of Direct Care Homes for Older People and Day Centres for Older People of £5.209m and £1.325m respectively.
- 1.2 The recommended options in this report are estimated to deliver on-going annual efficiencies of £6.221m for Direct Care Homes for Older People and £0.508m for Day Centres for Older People. These efficiencies include provision for alternative care and support for people currently using these services.
- 1.3 The proposed revised operating model for community support beds will be met from existing approved Better Care Fund income from the Derbyshire Integrated Care Board (ICB) of £6.015m per annum with a further contribution from the Better Care Fund for the proposed increase in the number of beds. There is annual process to agree priorities and financial plans for the Better Care Fund. This is a pooled budget to support health and social care integrated working.
- 1.4 A revised operating model and cost is being established for the remaining specialist dementia homes. The additional capacity created for dementia specialist long stay and respite beds will result in reduced use of the private and voluntary sector with this funding being re-directed into the remaining homes.
- 1.5 There are expected one-off property decommissioning costs of c. £0.183m and up to £4.174M of redundancy and early retirement costs. These one-off costs will be met from departmental reserves set aside for this in the first instance, from the additional efficiency set out in Para. 1.2 and potentially from general reserves.
- 1.6 There is an estimated £8.254m of unfunded condition survey works and whole life property costs for the homes which are identified as potentially no longer being operated by this local authority and £1.372m for the day centres. These costs will be avoided.

#### **Legal**

- 2.1 Section 1 Care Act 2014 imposes a general duty on the Council to promote an individual's well-being whenever exercising any function under Part 1 Care Act 2014.
- 2.2 'Well-being' is not defined within the Care Act 2014 and is a broad concept. Section 1(2) lists nine individual aspects of well-being as follows:
  - (a) personal dignity (including treatment of the individual with respect);
  - (b) physical and mental health and emotional well-being;
  - (c) protection from abuse and neglect;

- (d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
- (e) participation in work, education, training or recreation;
- (f) social and economic well-being;
- (g) domestic, family and personal relationships;
- (h) suitability of living accommodation;
- (i) the individual's contribution to society.

Although the well-being principle applies specifically when the Local Authority makes a decision in relation to an individual, the Care and Support Statutory Guidance is clear that the principle should also be considered by the Council when it undertakes broader, strategic functions.

2.3 Whilst the wellbeing principle applies when a local authority is exercising a function in an individual case, the Care and Support Statutory Guidance states that the principle should also be considered by the local authority when it undertakes broader, strategic functions and should be seen as the common theme around which care and support is built. The Care and Support Statutory Guidance also states that supporting people to live as independently as possible, for as long as possible, is a guiding principle of the Care Act.

2.4 The Council must also have regard to the following matters in particular, pursuant to the following subsections of s1(3) Care Act 2014

- (a) the importance of beginning with the assumption that the individual is best-placed to judge the individual's well-being;
- (b) the individual's views, wishes, feelings and beliefs and;
- (e) the importance of the individual participating as fully as possible in decisions relating to the exercise of the function concerned and being provided with the information and support necessary to enable the individual to participate;

2.5 Whilst the Council is not required by way of statutory duty to provide any in-house residential care or day opportunity provision, s5 Care Act 2014 places a separate duty on the Council to promote an efficient and effective market, with a view to ensuring that any person in its area wishing to access services in the market:

- a) has a variety of providers to choose from who (taken together) provide a variety of services.
- b) has a variety of high-quality services to choose from; and
- c) has sufficient information to make an informed decision about how to meet the needs in question.

2.6 In the context of a local authority's market oversight duty, the Care and Support Statutory Guidance states that local authorities must ensure the wellbeing of individuals and that their outcomes are central to care and support functions. It highlights the emphasis which is to be placed on the importance of enabling people to stay independent for as long as possible. The Care and Support Statutory Guidance goes on to state that local authorities need to understand the outcomes which matter most to people in their area and demonstrate that these outcomes are at the heart of their local strategies and approaches.



2.7 A needs assessment must be carried out where it appears to the Local Authority that a person may have needs for care and support. The assessment must identify whether the adult has any eligible needs. If there are, the assessment must state what those needs are. (s 9(1), Care Act 2014.) A Local Authority must also assess any carer (current or prospective) where it appears they may have needs for support. (s 10(1) Care Act 2014.

2.8 Where a Local Authority is satisfied on the basis of a needs or carer's assessment that an adult or their carer has needs for care and support, it must determine whether any of the needs meet the eligibility criteria (s13 (1) Care Act 2014). The criteria does not specify the types of care and support that a Local Authority must provide. to meet eligible needs.

2.9 Section 18 Care Act 2014 provides that where an adult is assessed as having eligible needs, the Council is under a duty to meet those needs. The criteria does not specify the types of care and support that a Local Authority must provide to meet eligible needs. Needs may therefore be met in a number of different ways e.g., by attending a day centre, or should the nature and/or extent of the care and support needed require it, the person care plan would specify a need for residential care. Should an individual be required to move accommodation, or should an individual's current day centre close, alternative arrangements to meet those eligible needs must be made.

2.10 Prior to any changes arising, their needs assessment and care and support plan should be reviewed. Where a care plan is to be altered, the Council must have regard to, amongst other things, the outcomes the individual wishes to achieve and the impact on a person's well-being. In offering alternative accommodation the Local Authority should have regard to the Care and Support (Choice of Accommodation) Regulations 2014. This report details steps which would be taken to support individuals who would be affected by the proposals to identify alternative options for their current care and support provision.

2.11 The Care and Support Statutory Guidance emphasises that care and support planning should be person centred when deciding how to meet eligible needs, placing people in control of their care, providing every opportunity to take joint ownership of the development of the plan with the local authority if they wish. The guiding principle therefore is that the person be actively involved and is given every opportunity to influence the planning and subsequent content of the plan in conjunction with the local authority, with support if needed.

2.12 Local authorities are also required by the Care Act to make information and advice available for all people and put in place universal services which are aimed at preventing, reducing or delaying care and support needs in the context of community wellbeing and social inclusion. Preventative approaches foster a holistic approach that includes accessing universal services, early intervention, promoting choice and control, and the development of social capital

2.13 Proposals to make significant changes in service provision require consultation with the public and those directly affected, including service users, staff and carers and relevant stakeholders.

2.14 The Gunning principles set out the common law principles to be observed when undertaking consultation. R v London Borough of Brent ex parte Gunning [1985] 84 LGR 168 established these principles, which set out that a consultation is only lawful when these four principles are met:

1. Proposals are still at a formative stage - A final decision has not yet been made, or predetermined, by the decision makers.
2. There is sufficient information to give 'intelligent consideration' - The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.
3. There is adequate time for consideration and response- There must be sufficient opportunity for consultees to participate in the consultation. In the absence of a prescribed statutory period, there is no set timeframe for consultation, though it is widely accepted that twelve-week consultation period is sufficient. The adequacy of the length of time given for consultees to respond can vary depending on the subject and extent of impact of the consultation.
4. 'Conscientious consideration' must be given to the consultation responses before a decision is made. Decision-makers should be able to provide evidence that they took consultation responses into account.

2.15 The consultation process should also contain a statement setting out the relevant context for the proposals under consideration. Residents should be provided with the true reason for the closure, and for why one home was favoured to remain open rather than another.

2.16 As the initial consultation has now closed, Members will need to take careful account of the views expressed in arriving at relevant decisions. In addition, any final decisions must also take into account the rights of service users as set out in the Human Rights Act 1998, specifically Article 8, "Right to respect for private and family life".

2.17 In coming to a decision, the Council should also have regard to the Public Sector Equality Duty (PSED) under the Equality Act 2010.

2.18 The PSED requires public authorities to have "due regard" to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010 (section 149(1) (a)).
- The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1) (b)). This involves having due regard to the needs to:

- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it (section 149(4)); and
- encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it (section 149(1)(c)).

2.19 An Equality Impact Analysis (EIA) has been carried out during the public consultation and a detailed EIA is annexed to this Report at appendix 8. Cabinet Members must have due regard to this report to ensure that it is satisfied that any adverse impact and the proposed mitigation allows it to meet the legal obligations set out above.

2.20 In addition to the requirements to consult outlined above, before entering into a Section 75 Agreement the NHS and Local Authorities Partnership Arrangements Regulations 2000 stipulate that the partners must consult jointly ‘with any such persons as appear to them to be affected by such arrangements’. The joint consultation proposed, and for which approval is sought, will satisfy this requirement once undertaken.

2.21 Should the Cabinet decide, following such consultation, that the Council and DCHS should enter into a Section 75 Agreement, it will need to be satisfied that such an agreement will lead to an improvement in the way those functions that are the subject of the agreement are exercised, in order to comply with Section 75(1) of the National Health Service Act 2006.

2.22 Any such Section 75 Agreement will need to clearly set out which other legal frameworks apply, including the duties that each party will be responsible for delivering on behalf of the other (the ‘delegated functions’). The Section 75 Agreement will require clear governance arrangements to be put in place in line with the regulations stating where accountabilities lie in terms of each bodies’ statutory duties with regards to health matters.

2.23 The decision to accept an offer in respect of any of the residential homes or non-integrated day centres would amount to a Key Decision if that offer exceeded £500,000. A Key Decision ordinarily requires approval from Cabinet pursuant to Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 (“the Regulations”) which sets out the definition of a key decision.

2.24 A “key decision” is an executive decision which is likely: (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or (b) to be significant in terms of its effects on communities living or working in an area comprising 2 or more electoral divisions in the County, see the

Council's Constitution Article 7, para 7.3(c). The legislation itself does not specify a financial level which should be considered "significant". It is therefore for the Council itself to specify the threshold. The Council has set this threshold at £500,000, see The Council's Constitution Article 7.3 (a)

2.25 The Council's Constitution at Article 7.3(c) states an officer may be specifically delegated authority to take a key decision but in general a key decision shall not constitute an action or decision taken by a Chief Officer under delegated powers which is in the furtherance of the day-to-day administration of the service for which the Executive Director is responsible.

2.26 The Council's Constitution, Appendix 1 H, Part C – Specific Delegations to the Director of Property, point 4 states in consultation with appropriate Executive Directors or Directors to acquire or dispose of interests in land or property as may be deemed appropriate, subject to the value of the interest not exceeding £500,000. A schedule of such transactions will be maintained and reported quarterly to the Cabinet Member for Corporate Services & Budget.

2.27 Appendix 1 F (a) Cabinet Member Portfolios permits Cabinet Members to take policy, budget and expenditure decisions in accordance with the principles set out in the paragraph Financial Regulations. Appendix 1 F (f) The Cabinet Member for Corporate Services & Budget may take decisions concerning the acquisition or disposal of land. Appendix 1 H Part A3 3.1 clearly states. The scheme [of delegation] does not delegate [...] any key decision or delegate matters to individuals members Council's Cabinet

2.28 Cabinet must therefore delegate authority to a Cabinet Member and/or a Director in respect of any decision to accept an offer and/or sell any property for a value exceeding £500,000 otherwise Cabinet would need to approve the decision and/or sale.

2.29 Review and authorisation of changes to departmental structures and establishments are matters to be dealt with in conjunction with the Director of People and Organisational Change, and authorising payments for employees in cases of early retirement, voluntary redundancy and compulsory redundancy must be considered in consultation with the Director of Finance and ICT and the Director of Legal and Democratic Services.

## **Human Resources**

3.0 If approved the above recommendations will result in the following:

3.1 A reduction of 271 staff (headcount) (169.22 FTE) (excluding reliefs and vacancies) (as at 14 October 2024), in relation to the ceasing to operate the 8 Older Peoples Residential Homes, including the integrated day centre at Lacemaker (as detailed in section 10.1 above). This reduction will either be: following the Home's purchase as a going concern via a successful tender and TUPE process (Transfer of Undertakings [Protection of Employment] Regulations 2006), or redundancy/redeployment if no buyer identified, with the Home's closure. Subject to

Cabinet approval, if a buyer is identified, a separate period of consultation will be undertaken with the staff of that relevant Home, in line with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), to facilitate their transfer to the Transferee.

3.2 A reduction of 27 staff (headcount), (15.16 FTE) (excluding reliefs and vacancies) (as at 14 October 2024), in relation to the closure of 5 Older Peoples Non Integrated Day Centres (as detailed in section 10.3 above).

3.3 Any resultant staffing changes will be considered/approved by the Executive Director for Adult Social Care and Health in conjunction with the Director of People & Organisational Change, Director of Finance and Director of Legal & Democratic Services.

3.4 Where employees' roles have been removed from the Council's structure and no longer exist, any termination of employment will amount to a dismissal by reason of redundancy. The Council will meet its legal obligation to reduce the number of compulsory redundancies and consider appropriate alternative employment in accordance with statutory requirements.

3.5 Informal engagement has taken place with those employees affected and the joint trade unions and formal consultation will be undertaken on the proposals with both these stakeholder groups.

3.6 This formal consultation will be undertaken in accordance with section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and will be covered by the Council's corporate notification to the Secretary of State of potential redundancies under Section 193 of the Act. Formal employee consultation, both group and individual, will be carried out in order to facilitate this process. A basic indicative timeline is outlined in Appendix 10, both in relation to (a) the TUPE transfer and/or closures of the 8 Residential Homes identified as not being retained and (b) closure of the 5 OPDCs. Where a successful tender is gained, a further individual indicative timeline will be identified in liaison with the relevant transferee(s).

3.7 Should the recommendations regarding a program of formal public consultation for: the two proposed options concerning the delivery of care detailed above, and to explore entering a formal partnership agreement with Derbyshire Community Health Services, be approved, further workforce implications would be provided based on the consultation outcome.

## **Information Technology**

N/A

## **Equalities Impact**

5.1 A full Equality Impact Analysis has been undertaken and is at appendices 8 and 9.

## **Corporate objectives and priorities for change**

- 6.1 In the Council Plan 2021 – 2025 the Council states that listening to, engaging and involving local people in order to ensure services are responsive and take account of what matter most to people, as being a core value.
- 6.2 The Council commits to work together with its partners and communities to be an enterprising council, delivering value for money and enabling local people and places to thrive, and to spend money wisely making the best use of the resources that it has.

**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**