

**Report of Corporate Director for People
to
Cabinet
on
23 June 2015**

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Outcome of the initial Site Feasibility Study for Delaware, Priory and Viking and the financial viability of the setting up of a Local Authority Trading Company

People Scrutiny Committee

Executive Councillor: Councillor James Moyies

Part 1 Public Agenda Item (Save for Appendix 1 which is not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972)

1. Purpose of Report

To present to Cabinet the outcome of the initial findings of the Site Feasibility Study of the two possible sites for the re-provision of Delaware House, Priory House and Viking Day Centre (preferred site being Priory).

To present to Cabinet the initial findings of an independent Financial Feasibility Study of setting up a Local Authority Trading Company (LATC) or Charitable Trust (CT) to manage Delaware House, Priory House and Viking Day Centre initially and potentially other care services.

2. Recommendations

2.1 That progress made since report to Cabinet in January 2015 be noted, and the option of setting up a Local Authority Trading Company (**LATC**) be agreed in principle subject to the following:

- (a) Completion of a business case
- (b) Completion of full business plan
- (c) Completion and consideration of an Equality Impact Assessment
- (d) Completion and consideration of consultation with service users, carers and staff
- (e) Completion of due diligence
- (f) Development of an implementation plan for an Apprenticeship Scheme
- (g) Development of an implementation plan for setting up a LATC structure and framework
- (h) Noting outcome of Site Feasibility Study to date which identifies the Priory site as the most viable option whilst acknowledging the viability of the alternative site option
- (i) Further reports on progress to be presented to Cabinet in September 2015, when a final decision on whether or not to pursue a LATC will be sought.

- 2.2 The Corporate Director for People in consultation with the Portfolio Holder for Health and Adult Social Care be given delegated authority to continue to lead the development of the LATC and Apprenticeship Scheme. A paper outlining progress to be presented to Cabinet in September 2015.
- 2.3 That work continues to establish the preferred design option for service re-provision which is based on the Priory site with a final report being produced by 31st July 2015. This final design brief report will incorporate an indicative programme up (to and including occupation) and an indicative, phased cost plan. A paper outlining progress to be presented to Cabinet in September 2015.
- 2.4 That work continues on the school sites reconfiguration project to support the transfer of the Priory school from the Priory site. This will include the consultation and sign off process for all the school sites affected by the project. Progress will be reported to Cabinet in September 2015.
- 2.5 The Corporate Director for People in consultation with the Portfolio Holders for Health and Adult Social Care and for Children and Learning be given delegated authority to lead the Site Feasibility Study and school site reconfiguration projects. A paper outlining progress to be presented at Cabinet in September 2015.

3. Background

3.1 Financial Feasibility Study of LATC or CT

- 3.1.1 It was agreed at Cabinet on 20th January 2015 that the principle of setting up a Local Authority Trading Company (LATC) or Charitable Trust (CT) be investigated further. This would involve undertaking a detailed Financial Feasibility Study into setting up either a LATC or CT to deliver the Delaware House and Priory House residential care home and Viking Day Centre services.
- 3.1.2 A financial feasibility consultant was appointed in April on a fixed fee contract to produce a Business Plan by 11th June 2015 including financial forecasts.
- 3.1.3 The consultant undertook interviews with all key stakeholders on 16th April 2015 and produced a data request for information to support the development of a detailed business case. The consultant also attended the Project Board meeting in April to provide an update and present the initial findings at a Board workshop on 21st May 2015.
- 3.1.4 The outcome of the high level review is included within the next section of this report and detailed work to date is included within the Executive Summary Business Plan prepared by the consultant at **Appendix 1**.

3.2 Site Feasibility Study

- 3.2.1 It was agreed at Cabinet on 20th January 2015 that a detailed and costed site Feasibility Study should be undertaken in respect of establishing a new dementia facility to replace Delaware House and Priory House as well as re-provision of Viking (Learning Disability) Day Centre and inclusion of extra care potentially on one integrated site.

3.2.2 It was agreed at Cabinet on 20th January 2015 that the preferred site would be Priory but the options would also consider the use of the Avro/Viking site as an alternative solution if issues arise with the use of the Priory site.

3.2.3 Architects (ADP Architecture) were appointed and have been working with key stakeholders regarding the requirements for the Residential facility, Day Centre and Extra Care over the last month. The Architects have attended two site feasibility sub groups and used the Board workshop on 21st May 2015 to review the initial design briefs to assist in the development of the potential design options for the two sites.

3.2.4 The work has been broken down into the following stages:

Date	Milestone	Output
w/c 13 th April 2015	Inception meeting	Inception Report
29 th May 2015	First Interim Report	Identifying Options
31 st July 2015	Project Management Group	Final Report and Presentation

3.2.5 The outcome of the first interim report is included within section 4 below.

3.3 Establishment of an Apprenticeship Scheme

3.3.1 It was agreed at Cabinet on 20th January 2015 that opportunities to develop an apprenticeship scheme to support the implementation of the LATC would be explored to contribute to its financial viability.

3.3.2 The outcome of the work undertaken to establish an apprenticeship scheme is included within the next section of the report with further detail provided within **Appendix 2**.

3.4 The next section sets out work that has been undertaken following the Cabinet decision on 20th January 2015.

4. The outcome of the feasibility studies

4.1 The overall programme has been managed through a Project Board with a sub group managing the Site Feasibility Study.

4.2 Financial Feasibility Study of LATC or CT

4.2.1 The financial feasibility work has been undertaken by an independent financial consultant who has worked closely with key internal stakeholders, including finance colleagues. This has involved obtaining detailed financial, staff and activity data for the current service offerings.

4.2.2 The work undertaken has established that the benefits of a LATC outweighs the benefits of a CT due to procurement issues, retaining Council influence and the flexibility of extending the remit of the Company to take on additional responsibilities. See **Appendix 1**.

4.2.3 There are a large number of risks associated with the establishment of the LATC and its future operations. The key risks are summarised below:

- Maintenance of existing income streams;
- Timely completion and service commencement of new Care Facilities Development;
- Delivery of the efficiency savings, especially the ability to appoint new staff on alternative terms and conditions;
- Lack of critical mass and management capacity in the early years of the LATC given the significant agenda;
- Future cost pressures (including pension contributions) and impact of further austerity measures.

4.2.4 The information has been fed into a business model that has been developed by the external consultant to establish the viability of the LATC. A detailed profit and loss account is being produced that sets out the costs of the new service and the efficiency savings required. A summary is provided within **Appendix 1**.

4.2.5 The findings are that a LATC is a potentially viable option but this is based on the following:

- An apprenticeship scheme is established and implemented as part of the implementation of the LATC and contributes to the savings programme
- Commensurate savings in the Corporate and Department overheads that are currently recharged to the proposed transferring adult social care services
- That new staff appointed following the establishment of the LATC are employed on new terms and conditions (i.e. Non Local Authority)
- That the development of the new facility takes place to support the future service delivery model as stated within the business model is completed in a timely manner.

4.2.6 Consideration will need to be given as part of the next phase as to whether the LATC should be set up as a new organisation or whether it should be aligned to one that is already established, in order to identify the most cost effective model that meets local aspirations.

4.2.7 Conclusions

That the LATC model is preferable to a CT model, and should be the option pursued.

The model for the establishment of the LATC is potentially viable however this is based on a number of assumptions set out above, and needs the completion of a final business plan and financial due diligence before a final decision is made to pursue.

An implementation timetable for the LATC needs to be developed which will set out the required level of consultation needed with staff, service users and carers.

Consideration will need to be given within the next phase, as to whether the LATC is a stand-alone organisation or whether it is aligned to an established LATC. Further analysis is required to establish the most cost effective model that meets local aspirations.

4.3 Site Feasibility Study

4.3.1 The site feasibility work has been led by ADP Architecture and has involved them working closely over the last month with the service leads for the residential, day care and extra care facilities to establish service requirements.

4.3.2 This information has been used to develop potential options for the preferred and non-preferred site.

4.3.3 The options are based on different levels of integration on the site between the three facilities (residential care, day care and extra care). The level of shared facilities will impact on the design and the cost of build.

4.3.4 The site and financial feasibility study workshop on 21st May 2015 considered the design options for the Viking/Avro site as this is the smallest of the two sites. Design options for the preferred Priory site and for the Viking/Avro Site will be included in the next phase of work.

4.3.5 The design work on the Viking/Avro site illustrated that the care home and day care facility could be provided on the site, however it is not large enough to support the extra care requirement. This confirmed that the Priory site is the best option from a design perspective but has greater risks due to the need to relocate the school, which is dependent on the decision of the Secretary of State.

4.3.6 The topography of the Priory site would suggest the optimum position from a design perspective would be to secure a clear site in advance of commencing the build. This is also likely to result in a cheaper, less risky build. However it is acknowledged that to secure a clear site would conflict with the commitment given to keep Priory House operational until the new facility opens.

4.3.7 The next phase of work will be to complete the design options for the Priory site and then undertake an option appraisal process to establish the preferred option for each of the sites. This will result in a paper setting out the preferred option.

4.3.8 The final report on the Site Feasibility Study is due on 31st July 2015.

4.3.9 Conclusions

There are potentially a number of design options regarding the building configuration based on the level of shared facilities and the level of

integration between the three facilities (care home, day centre and extra care).

Priory site is recognised as the preferred site from a design perspective.

Work to continue to establish the preferred design option for both sites and the overall preferred design solution to include an indicative cost and implementation model.

4.4 Establishment of an Apprenticeship Scheme

4.4.1 The apprenticeship project has involved working with the Southend Adult College to establish their appetite to support the development of a local care apprenticeship scheme and establishing Essex County Council's (ECC) approach to developing their own health and social care academy. See **Appendix 2**.

4.4.2 Southend Adult College is keen to participate and would support the implementation of a local care apprenticeship scheme. The initial proposal is for the Council to expand its current Apprenticeship Scheme to include Care services. This would ensure that the scheme was in place for the start of the next academic year, although this is not critical as the scheme can start at any point. Whilst this work is underway, consideration will need to be given regarding whether the apprenticeship scheme is a Southend only or jointly managed through the ECC model.

4.4.3 ECC was investigating the possibility of a Health and Social Care Academy to train 200 level 2 apprentices over the next 2/3 years. The current proposal will be piloted in 4 locations (Chelmsford, Harlow, Basildon and Colchester). The plan is to have about 40 apprentices on the programme (20 from health and 20 from social care) and if it works, the expectation is that this will be rolled out to all areas.

4.4.4 The ECC proposal is generally in line with the local proposal, however, the understanding is that ECC is still looking at using ESF funding to subsidise salary cost. This will be through SELEP ESIF bids but tenders are still with the Opt-in agencies, specifications and size of contracts have not yet been approved by managing agencies. This means that this is likely to take some time and may impact negatively on local aspirations.

4.4.5 Conclusions

Extend the Council's current Apprenticeship Scheme (using Southend Adult Community College) to include care service staff.

Continue to explore whether the apprenticeship scheme is a Southend only or jointly managed through the ECC model.

4.5 The conclusions and recommendations within this report reflect the current situation regarding the financial feasibility of establishing a LATC, a local care Apprenticeship Scheme and Site Feasibility Study. The next section sets out the next steps for each of the projects.

5. Next steps

- 5.1 Once agreed, the work will continue on establishing the LATC and an Apprenticeship Scheme. A detailed project plan managed by the Project Board will be developed to manage the next phase of this programme.
- 5.2 The site feasibility work will continue through to the final report at the end of July 2015 managed through the Site Feasibility Sub Group.
- 5.3 An implementation plan will be produced regarding the LATC and Apprenticeship Scheme which takes into account the need for consultation with staff, service users and carers.
- 5.4 Work will continue on developing the preferred site option through to the 31st July 2015. Once the design phase is completed and signed off then planning needs to start regarding the implementation of the preferred design including obtaining planning consent.

6. Other Options

No other site options were considered as it was agreed at Cabinet in January 2015 that only two sites should be considered with Priory being the preferred site

Consideration was given to joining the ECC Apprenticeship Scheme and this is still a potential solution depending on timescales and its ability to meet local requirements.

Consideration will need to be given as to whether the LATC is a stand-alone company or aligned to an established LATC as part of the implementation phase of setting up an LATC.

7. Reasons for the recommendations

It provides the Council with an opportunity to develop a new modern integrated care home facility whilst at the same time allowing for the potential development of a LATC that could, over time, take on responsibility for other adult social care provider services. This model should provide the Council with a more cost effective service delivery model which, in turn, will generate a surplus.

8. Corporate Implications

8.1 Contribution to Council's Vision & Corporate Priorities

Clean, Healthy, Prosperous, Excellent

The aim of this report and recommendations is to provide sustainable, high quality, value for money, residential and extra care services for frail older people and people with dementia and day care services for learning disability clients.

8.2 Financial Implications

The financial implications for the LATC and Site Feasibility Study are included throughout this report and in **Appendix 1**.

The business plan suggests that after an initial set up phase, the LATC will be financially viable, generating a reasonable trading surplus. The same business plan suggests a financial benefit to the Council, after allowing for the cost of the capital investment in the new care facilities. By year 3 the business plan suggests a financial benefit to the Council in the region of £500,000.

The LATC viability is dependent on the budget currently supporting the payment of allocated corporate and departmental recharges being used to fund the new governance and commercial arrangements within the company, and administrative overheads. Therefore to the extent that the company does not buy back existing services from the Council, the Council will be faced with the need to make additional savings. This issue will be explored further as part of the financial due diligence.

The costs of building the proposed care facilities, once established, will need to be included within the next iteration of the capital programme. There should be a presumption that the proceeds from the sale of surplus adult social care land arising from the redevelopment are applied as part of the financing package for the care facilities. This has an indicative value of £2.5m.

As reported in January, initial indications are that the costs of the care facilities could be in the order of circa. £8 million (£5m a new care facility, £2m Viking service re-provision and £1m school relocation).

At this stage, only the sum of £2m for the Viking service re-provision is contained in the approved Capital Programme. All financing options for the capital investment will be fully explored as part of financial due diligence. Effectively, the Company will cover the cost of any capital investment through an ongoing lease charge for the assets concerned.

Grant Thornton have been engaged to undertake the necessary financial due diligence. They will undertake the detailed financial examination during the summer if the proposals in this report are approved. Based upon the business plan attached as Appendix 1 their current advice is as follows;

“We have now reviewed the Cabinet paper dated 23 June and the business plan executive summary and have the following high level comments:

Our previous assessment of the options appraisal carried out in January 2015 concluded that a LATC was worthy of further appraisal but the charitable trust model was not. The Cabinet report at that time stated that it was agreed that both models would be investigated further. We agree with the conclusion in the Cabinet paper dated 23 June that LATC is the only option worthy of further development. “

In addition, they have also provided further advice on a potential governance structure and formation of the company along with the appropriate taxation

advice to achieve maximum value for money for the company. The detail of this advice will be incorporated within their more detailed report in the summer.

8.3 Legal Implications

At this stage the Cabinet is being asked to agree in *principle* to the formation of a LATC to deliver Adult Social Care services. This *in principle* decision is subject to the outcome of key steps and therefore it is not a binding decision, which under the terms of the Recommendations, Cabinet is due to make in September.

The Council has powers to provide the existing functions and services under the Care Act 2014 and to the extent the relevant provisions have not yet been repealed, under the National Assistance Act 1948, the National Health Service and Community Care Act 1990, other related care legislation together with section 111 of the Local Government Act 1972.

The Council has a power to trade in function related services (this includes forming a LATC) under either Section 95 of the Local Government Act 2003 or the General Power or section 4 of the Localism Act 2011.

Section 2 of the Localism Act 2011 limits the exercise of the General Power where it 'overlaps' with a power which predates it, such as Section 95 of the Local Government Act 2003. Whether the Council relies on the General Power and/or Section 95 it is prudent for it to comply with the requirements and limitations to which section 95 is subject. These are set out in Regulation 2 of The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009 (the **Order**) which requires a **business case** to be prepared and approved by the council before a company starts trading.

A **business case** differs from the a business plan (which is a detailed tool to determine the LATC's viability). The business case is a tool to assist the Council make a decision and the Order requires such a business case to address:

- (a) the objectives of the business,
- (b) the investment and other resources required to achieve those objectives,
- (c) any risks the business might face and how significant these risks are, and
- (d) the expected financial results of the business, together with any other relevant outcomes that the business is expected to achieve.

It is probable that much of the required information for the business case will form part of the final business plan and so avoid duplication.

Further consultations with staff and service users and their carers will be undertaken that meet the Council policy on service changes. Further work supported by specialist advisors will take place regarding the development of a LATC and the establishment of a preferred site development option. Consultation with service users and carers is also a legal obligation and it will

be necessary for the Council to consider consultation responses to the proposed changes in service delivery no later than when it makes its final decision on the proposals.

It will also be necessary for the Council to undertake an Equality Impact Assessment for the proposal so that the Cabinet may consider this in September.

It will be necessary to ensure that the final form of arrangements comply with EU procurement and EU State Aid requirements. This is usually straight forward for Adult Social care LATCs due to both the nature of the services and the relation between an LATC and its local authority parent. This will be addressed in further detail in the September report to Cabinet.

Further legal consideration will need to be given following the outcome of Cabinet as part of the implementation of the LATC and Apprenticeship Scheme as well as development of the preferred site.

8.4 People Implications

Council HR processes will be followed and there are staff consultation and possible TUPE issues.

The financial viability of the LATC is dependent on new staff employed by the company being appointed on alternative terms and conditions

8.5 Property Implications

The high level property matters associated with the proposals are set out in this report. The Asset Management and Property and Regeneration Teams have been involved in developing options and advising generally on property issues as part of the project team.

8.6 Consultation

Consultation will need to be undertaken on the setting up a LATC and the establishment of Apprenticeship Scheme. On-going meetings with staff and carers at the three current sites will continue throughout this project.

8.7 Equalities Impact Assessment

These proposals represent a positive impact on older people in Southend. There are no adverse impacts to note at this point. However, a full EIA will be undertaken prior to the submission of September 2015 Cabinet Report.

8.8 Risk Assessment

If the proposal and recommendations are agreed, then the Project Board will continue to the next stage and invite other parties to ensure there is a clear project and action plan in place through to implementation. This would also entail a detailed Risk Assessment Plan.

8.9 Value for Money

Any contracts will be let in accordance with the Council's Contract Procedure Rules to ensure value for money is delivered.

8.10 Community Safety Implications

N/A

8.11 Environmental Impact

The proposals will improve and better meet the needs of the clients and carers. Any new buildings will be subject to usual planning procedures.

9. Background Papers

None

10. Appendices

Confidential Appendix 1: The Executive Summary Business Plan prepared by Peter Morgan, external consultant.

Appendix 2: Apprenticeships Paper