

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO CABINET

27 FEBRUARY 2018

### REPORT OF THE CORPORATE DIRECTOR – SOCIAL SERVICES AND WELLBEING

#### REMODELLING OLDER PERSONS ACCOMMODATION

##### 1.0 Purpose of Report

- 1.1 The purpose of this report is to make a recommendation to Cabinet to tender as a going concern one of BCBC's internal residential care homes, which is currently in-scope for the Extra Care Housing (ECH) scheme plans.

##### 2.0 Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The report links to the following priorities in the Corporate Plan 2016-20:

- Helping people to become more self-reliant;
- Smarter use of resources.

##### 3.0 Background

###### Extra Care

- 3.1 In November 2014, Cabinet approved the option for the Council to seek Registered Social Landlords (RSL) to develop two new ECH schemes in the County Borough, which once developed, will replace 3 of the existing Council-run care homes.
- 3.2 Three RSLs expressed an interest in working with BCBC on this project, and they were sent a briefing note and selection criteria that clearly set out the Council's intention to dispose of two parcels of land for the potential development of ECH schemes. Scheme 1 – Former Maesteg Lower Comprehensive site; and Scheme 2 – Former Archbishop McGrath site at Ynysawdre.
- 3.3 The submissions were evaluated based on value for money (quality, cost and time) determined by the Project plan; the costs of leasing the residential units; and the level, nature and timing of any subsidy required; together with the need to meet the essential criteria set out in the brief. Following the evaluation, Linc Cymru were deemed to be the preferred RSL partner by the evaluation panel.
- 3.4 In January 2016, Cabinet approved the disposal of the sites to Linc Cymru at the market value, and officers were also given delegated authority to enter into formal agreements with Linc Cymru and to grant the subsidy to Linc Cymru at a level that delivers value for money in accordance with the proposed financial model. Specific details in respect of financial values and the service models being developed are contained and are available within the report to Cabinet in January 2016.

- 3.5 Work has commenced at each site, and the project timetable provided by Linc Cymru (11/10/17) is as follows, and a Project Board and a number of workstreams have been established in order to monitor and oversee progress against this plan:

	<b>Maesteg</b>	<b>Ynysawdre</b>
Tender Issue	14/10/16	01/11/16
Tender Return	08/12/16	23/12/16
Linc Board Approval	26/01/17	26/01/17
Contract Mobilisation	06/03/17	06/03/17
Commencement on-site	19/06/17	22/05/17
Fit out period	September 18	September 18
Completion	October 18	October 18

#### Ty Cwm Ogwr care home proposal

- 3.6 In August 2016, an opportunity presented itself in respect of the plans for the BCBC in-house residential care homes in the longer term; which is for an independent provider to purchase as a going concern one of the 3 Council care homes which is in-scope for the ECH schemes, and remodel the home over time based on BCBC's requirements. Based on this proposal, a briefing note was presented to Corporate Management Board (CMB), who following consideration, gave approval to scope-out this proposal further.
- 3.7 A multi-department Project Team was convened (involving colleagues from Adult Social Care, Procurement, Legal Services, Human Resources, Finance and Property Services) to consider the potential viability of this proposal, where during officer discussions it was suggested that it would be possible to undertake a procurement exercise alongside a land and building long-lease, should the service area wish to tender the care home as a going concern.
- 3.8 An appraisal of the three existing BCBC homes in-scope for the ECH schemes was undertaken, in order to identify which home would be most suitable for these potential plans; where it was identified that Ty Cwm Ogwr in the Ogmores Valley would be the most appropriate, for the following reasons:
- Under current plans, there will be an alternative ECH scheme containing residential beds being built within a close proximity of Hyfrydol and Glan-yr-Afon care homes but no new provision in the Ogmores Valley offering a direct alternative. The table below charts the distance between the three existing BCBC homes, and the new ECH schemes being developed:

	<b>Glan-yr-Afon</b>	<b>Hyfrydol</b>	<b>Ty Cwm Ogwr</b>
ECH 1 - Ynysawdre	<b>&lt; 0.5 mile</b>	6 miles	5 miles
ECH 2 - Maesteg	6 miles	<b>&lt; 0.5 mile</b>	10 miles

- Following analysis of the site plans and the condition surveys undertaken at each of the three homes, Ty Cwm Ogwr was identified as the most suitable for converting into a Nursing EMI model over time – which would encourage potential bidders.

3.9 In July 2017, a report was presented to Cabinet advising them of the potential option to tender Ty Cwm Ogwr care home as a going concern. Cabinet noted the report and gave authority for targeted engagement and consultation to be undertaken with individuals, families and staff affected by the proposal. Cabinet also noted that feedback from OVSC would be sought in respect of the proposed plans; and noted that Cabinet would receive a further report outlining the results of the consultation and feedback from OVSC, and if appropriate asking for authority to go out to tender.

3.10 In January 2018, a report was presented to OVSC, which provided detail on the proposal to tender as a going concern Ty Cwm Ogwr care home, which also provided the results and feedback from the engagement and consultation. OVSC were requested to provide comment and feedback on the proposal, and to note that a report would be presented to Cabinet in February 2018, requesting approval to undertake the proposed tender process.

3.11 Members welcomed the proposal and were reassured to hear of the Trade Unions' involvement during the engagement and consultation process. Members also raised concerns in respect of survey response rates, and recommended that when reporting to Cabinet, additional detail is provided in respect of potential savings and safeguarding processes – all of which have been addressed within this report.

#### **4.0 Current situation / proposal**

##### Engagement and consultation

4.1 Following approval from Cabinet in July 2017 to undertake targeted engagement and consultation, staff at Ty Cwm Ogwr were briefed on the proposal, where they had an opportunity to voice their initial thoughts and questions, and were assured that there would be a consultation period where they would be able to raise any concerns, and have a more in-depth discussion. There has also been management presence in the home throughout the engagement process, so a lot of questions have been raised and dealt with as they have arisen on an informal basis.

4.2 In addition to the early engagement mentioned above, targeted consultation has also been undertaken with those individuals, families and staff at Ty Cwm Ogwr affected by the proposal, in order to help inform the main benefits and drawbacks of undertaking this approach, and for alternative options to be considered which took place in the form of:

- A full-day 'drop-in' event undertaken at Ty Cwm Ogwr, where staff, families/carers and residents themselves could meet with officers from Adult Social Care, Human Resources and Trade Unions to discuss the proposal;
- Contact details being provided within letters sent to all staff, residents and families – offering individuals an opportunity to provide feedback either over the phone or in writing (if preferred) – and the offer of 1:1 meetings; and
- A survey being sent out to all staff and families/carers of residents – requesting for feedback in respect of the proposal.

4.3 The key findings from this targeted engagement and consultation is shown below:

#### 4.3.1 *Survey responses*

- 21 survey responses were received in total
- 14 of these were from staff – which represents 30% of all staff at Ty Cwm Ogwr
- 7 of these were from families – which represents 33% of the 21 placements made at Ty Cwm Ogwr during the time of the consultation and engagement

#### 4.3.2 *Survey Question – Are you supportive of the proposal (yes/no)*

- 90% (19 people) of total respondents responded ‘yes’
- 5% (one person) of total respondents responded ‘no’
- 5% (one person) of total respondents responded ‘not sure’
- 13 staff members were supportive of the proposal, with one saying ‘not sure’
- 6 family members/carers were supportive of the proposal, with one saying ‘no’

#### 4.3.3 *When asked to explain the response...*

- Of those who responded ‘yes’ – the main reasons provided were: security for residents/families/staff, no upheaval, and provision remains in the Ogmores Valley
- The family member who responded ‘no’ – the reason given was that they felt that “private homes were not controlled”
- The staff member who responded ‘not sure’ – the reason given was that they were concerned for staff following transfer to an independent provider

#### 4.3.4 *Survey Question – What are the main benefits of the proposal?*

- The reasons provided mirrored their explanation for stating why they were supportive of the proposal. i.e. Home remains in the valley, residents don’t have to move, families have peace of mind, continuity of care, no long journeys for families

#### 4.3.5 *Survey Question – What are the main drawbacks of the proposal?*

- There were some concerns raised around: the home requiring investment, concerns about terms and conditions for staff and the TUPE process, unknowns in respect of the potential bidders, plans that the home could be Nursing EMI only in the future

#### 4.3.6 *Survey Question – Any alternative options that we should consider?*

- A relatively small number of alternative suggestions/variations were provided, which were: retain some residential care beds (not just Nursing EMI), and give staff the choice to transfer to the new ECH schemes, if they would prefer

4.4 Following analysis of the feedback received from the targeted engagement and consultation with those individuals, families and staff affected by the proposal, officers have:

- Gone back to staff, residents and families/carers – providing a summary of the key findings and recurring themes identified;

- Directly contacted individuals who raised concerns about the proposal, in order to address and alleviate their concerns; and
- Linked-in with colleagues in Human Resources regarding staff implications, which has been included in the response provided to staff.

#### Procurement approach

4.5 Under the Public Contracts Regulations 2015, and in-line with BCBC’s Contract Procedure Rules, the Council is required to undertake an open and transparent process in order to select a provider to transfer Ty Cwm Ogwr to as a going concern, which will be undertaken in the form of a procurement exercise.

4.6 The proposed approach would involve a procurement exercise being undertaken using Most Economically Advantageous Tender (MEAT). Criteria will be established and appropriate weighting will be applied to quality/price:

- Lease on a long-term basis the land and building (which will be subject to an independent valuation which is to be undertaken by a specialist valuer within the care home sector), and tender the service as a going concern. i.e. With the current residents to continue receiving a residential service;
- The service must continue to be delivered in accordance with the existing contract (pre placement agreement) which is in place with all independent BCBC care home providers;
- As the successful bidder will be awarded a pre-placement agreement, they will be subject to the terms of the contract, which includes contract monitoring requirements in-line with the Regional Quality Framework, that all care homes are subject to – both internal care homes and commissioned care homes;
- As per the terms of the contract, payments made to the purchaser/provider will be made in-line with the sector-wide ‘standard price schedule’ i.e. Rates for individual placements are fixed at the below rates:

<b>Category</b>	<b>2017/18 Rate</b>
General Residential	£542
Residential EMI	£578
General Nursing (including health contribution of £149.67)	£691.67
Nursing EMI (including health contribution of £149.67)	£727.67

- There will be a strong emphasis on quality, and there will be an expectation and requirement that the successful bidder will be an experienced care provider;
- Working alongside colleagues in Procurement, consideration will be given as to how families of residents and staff members can be a part of the tender process – which will help inform the decision made in respect of the successful bidder.

4.7 An indicative procurement timetable is shown below:

<b>Task</b>	<b>Date</b>
Engagement with affected staff/families/residents	September 2017
Draft Tender Pack	Dec 17 – Feb 18
Report to OVSC – pre decision scrutiny	8 <sup>th</sup> January 2018

Report to Cabinet – approval to go to tender	27 <sup>th</sup> February 2018
Publish notice on Sell2Wales	March 2018
Close Tender	May 2018
Evaluate Tender	May 2018
Presentation/Interviews	June 2018
Approval to award (Delegated Power)/Award Notice	July 2018
Mobilisation/formal staff consultation	August 18 – Sept 18

- 4.8 Approximately 40 staff are employed by BCBC working in Ty Cwm Ogwr, including a mixture of care and ancillary staff, and, following consultation, it is anticipated that all staff employed at Ty Cwm Ogwr prior to transfer will TUPE across to the new provider at contract commencement, dependent on how the successful provider proposes to deliver the service in moving forward. Staff will initially transfer with their existing terms and conditions.
- 4.9 Consideration in respect of pension costs and the potential implications with regard to the historic liability for pensions is being undertaken at the next stage – during the finalising of the tender pack – taking into account the likely risks and costs for both the Council and bidding organisations.

#### Benefits and risks

- 4.10 If given approval to tender Ty Cwm Ogwr care home as a going concern, a number of benefits could be achieved, including:
- No move necessary for those residents in Ty Cwm Ogwr – which was direct feedback received during the engagement and consultation;
  - More appropriate longer-term use of a provision which currently has vacancy levels of over 30%. i.e. 9 vacancies within a 28-bed home;
  - There is scope to convert the home into a Nursing EMI provision over time, which is a high priority area for BCBC (in line with Western Bay Care Home Commissioning Plan) and a category where there is limited capacity and often very few vacancies;
  - This would result in a smoother ECH transition plan. i.e. 2 homes (totaling 62 beds) into 2 ECH schemes with a 70-bed capacity, as opposed to 3 homes (totaling 90 beds) transferring into a 70-bed capacity – as per current plans;
  - As highlighted in paragraph 4.8, following consultation, it is anticipated that all staff employed at Ty Cwm Ogwr prior to transfer will TUPE across to the new provider at contract commencement – thus eliminating any redundancy implications and costs for those staff at Ty Cwm Ogwr;
  - Care home provision remains in the Ogmore Valley – which is recognised as being a key hub within the community.
- 4.11 However, there are some risks with this proposal, which include:
- The option to retain one of the homes as a going concern was not considered as part of the consultation on the ECH scheme;
  - Requires an open tender exercise, which has inherent risks and no guarantees;
  - An untried procurement approach being undertaken. i.e. Tendering the service alongside a land and building long lease.

- 4.12 In recognition of the risks identified above, further engagement and targeted consultation was undertaken with those affected as reported in paragraphs 4.1 and 4.2. The proposed procurement route was considered, and advice received stated that it is a lawful approach, and that BCBC had identified proper reasons for selecting Ty Cwm Ogwr.
- 4.13 Safeguarding, contract monitoring and quality assurance processes and procedures at Ty Cwm Ogwr will not change as a result of the home being transferred to an alternative provider. BCBC will remain the lead agency for all safeguarding alerts for homes within the county borough, and there is a clear process for dealing with safeguarding referrals; that applies to both BCBC and independent care homes. There are also very clear expectations and requirements within the contract and service specification for commissioned providers to have appropriate safeguarding policies and procedures in place.
- 4.14 In light of the positive response to the proposal received from those directly affected during the targeted engagement and consultation, and the associated benefits identified above, it is recommended that Ty Cwm Ogwr care home is tendered as a going concern.

## **5.0 Effects on the Policy Framework and Procedure Rules**

- 5.1 There is no impact on the Policy Framework and Procedure Rules.

## **6.0 Equalities Impact Assessment**

- 6.1 An Equality Impact Assessment screening has been undertaken, which identified a low EIA priority, due to the fact there is a negligible impact on staff and residents immediately as a tender exercise is being undertaken, whereby all existing staff and residents will transfer to the new provider under current terms and conditions.
- 6.2 There is an expectation that the home will remodel over time in order to meet the needs and requirements of the care sector in moving forward (i.e. more complex needs), and the impact of any future changes will need to be assessed in the future – namely after 3 years, when a full EIA will be undertaken.

## **7.0 Financial Implications**

- 7.1 BCBC's gross budgeted cost for Ty Cwm Ogwr care home is £1 million in 2017/18; £890,000 of which relates to staff costs – which will be the potential TUPE cost based on the assumption that following consultation all current Ty Cwm Ogwr staff transfer to the new provider.
- 7.2 By way of comparison with the independent sector – based on the 2017/18 price schedule of rates – the comparative cost if the service was provided by the independent sector totals £805,000; this represents a potential shortfall of circa £85,000 in year 1 for the successful provider, excluding running costs – but a corresponding cost reduction for BCBC. Consideration will therefore be given in respect of transition arrangements, and whether an element of support is required in the short-term.

- 7.3 The average length of stay within existing BCBC homes is 2.5 years – which is the going concern element of the tender exercise. The total contract value therefore totals circa £2 million. i.e. £805,000 multiplied by 2.5 years.
- 7.4 An independent valuation of the land and building is being undertaken, coordinated by colleagues in Property Services, and initial informed estimates value the land and building at Ty Cwm Ogwr in the region of £100,000 to £195,000 – which will generate a one-off capital receipt of this amount for the Council.
- 7.5 As part of the tender process, providers may also be asked to consider whether they can offer any financial added value. No assumptions have been made in respect of this potential income amount, due to the cost differentials when comparing likely TUPE costs with likely income levels for the provider based on BCBC’s schedule of rates – as described in paragraph 7.2 above. i.e. There is no guarantee that bidders will include any amount as part of the tender process and they will not be disqualified for failing to include financial added value in their submission.
- 7.6 It is currently projected that the proposed plan for Ty Cwm Ogwr will not adversely impact on the transition arrangements for individuals, and will therefore not affect the MTFS savings requirements linked to extra care remodelling. However, the full financial impact will not be known until the tender is undertaken, as tendered costs will not be known until this point. Also, the needs of individuals continually change, and the numbers of placements could differ between now and transfer date. The costs of funding the placements made within Ty Cwm Ogwr will continue to be met from core community budgets.
- 7.7 There will be no financial implication for BCBC in phasing in new models of care (such as Nursing EMI models) over time, as the additional cost of Nursing/Nursing EMI placements are met by health through Funded Nursing Care (FNC) payments.

## **8.0 Recommendations**

8.1 It is recommended that Cabinet:

- Note the information contained in this report;
- Give approval to tender Ty Cwm Ogwr in line with the proposals at 4.6; and
- Delegate authority to the Cabinet Member for Social Services and Early Help to approve the award of the contract to the successful bidder under Scheme A of the Scheme of Delegation.

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February 2018

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### **Background documents:**

None