

Gloucestershire County Council
Notice of call-in

To: Chief Executive

We, the undersigned five Members, give notice of our desire to call-in the following executive decision, notice of which was published on 22/06/2022

Decision wording:

Cllr Carole Allaway Martin provided an analysis of the consultation exercise of suggested actions to influence and aid the sustainability of the Independent health and social Care Market in light of the initial and ongoing impact of the Covid-19 pandemic and sought approval for the recommendations associated with that analysis

Having considered all of the information, cabinet noted the report and

RESOLVED to:

1. Review the analysis of feedback received during the consultation on the proposed decommissioning and closure of four homes built in the 1970's managed by the Gloucestershire Care Partnership (GCP)
2. Agree to the closure of the following care homes currently operating under the GCP contract
 - Bohanam House, Gloucester
 - Orchard House, Bishops Cleeve, Tewkesbury
 - The Elms, Stonehouse Stroud
 - Westbury Court, Westbury, Forest of Dean
3. Delegate authority to the Executive Director of Adult Social Care and Public Health in consultation with the Cabinet Member for Adults Social Care Commissioning to
 - a. initiate such steps as are necessary to decommission those homes.
 - b. support the residents of those homes to move to alternative placements, as necessary.
 - c. develop the business case for redeveloping the Elms site in Stonehouse, Gloucestershire for a new care facility
 - d. develop the business case for redeveloping the GIS site at Cinderford for a new care facility post 2025

- e. work with the Assistant Director of Asset Management & Property Services to identify alternative sites within the Gloucestershire County Council portfolio that may be suitable for development/redevelopment as a sustainable care facility

ENDS

The grounds for the call-in are that the following condition(s) are satisfied for the reasons specified:

- 3.1. In making the decision, the Cabinet, the Leader of the Council or a Cabinet Member or Officer under delegated powers took account of an irrelevant matter or failed to take account of a relevant matter, which in the opinion of the Chief Executive, had (or would have had) a significant bearing on that decision.

- The relevant matter not taken into account is *:

This decision has failed to comply with the principles of decision making (7.02), specifically on three criteria:

Para 7.02.3 They should take proper account of consultation with others;

In resolving to close Bohanam House, Orchard House, The Elms and Westbury Court, Cabinet failed to follow the Gunning Principles – the laws of consultation which define whether consultation is legitimate or not.

Under the Gunning Principles, proposals must be “at a formative stage” and a final decision must “not yet been made, or predetermined, by the decision makers.”¹

In a press release shared by Gloucestershire County Council on 11 April, the day GCC began the consultation into the future of the four care homes, Council Leader Mark Hawthorne is quoted as saying, “Whilst there is never a good time to make these types of proposals, having heard from the care market and in the face of ever-increasing vacancy levels in our care homes, we simply can’t simply stand by and do nothing.”

This was reiterated in a press release shared by Gloucestershire County Council on 14 June, 8 days prior to the Cabinet meeting, Council Leader Mark Hawthorne is quoted as saying, “When Cabinet meets, it will have to weigh up the understandable and valid concerns raised by those in the four homes with the wider trends and issues impacting on the local care market.” Which is immediately proceeded with, “We cannot afford to do nothing.”

¹ <https://www.local.gov.uk/sites/default/files/documents/The%20Gunning%20Principles.pdf>

These press releases, specifically the statement at the beginning of the consultation that “we simply can’t stand by and do nothing” and the statement in advance of the Cabinet meeting that “We cannot afford to do nothing” demonstrate that the Council Leader had predetermined the decision to close the care homes – failing the Gunning Principles test.

This leaves the County Council open to judicial review and to complaints to the Local Government Ombudsman

Para 7.02.3 They should take proper account of consultation with others;

In resolving to close Bohanam House, Orchard House, The Elms and Westbury Court, Cabinet failed to sufficiently take into consideration the consultation responses.

Under the Gunning Principles, “‘conscientious consideration’ must be given to the consultation responses before a decision is made” and “decision-makers should be able to provide evidence that they took consultation responses into account.”

The response to the consultation was overwhelmingly against the decision to close the care homes. Combined, 2,286 members of the public signed petitions opposing the proposed closure of the care homes, and responses from care home residents, family members and staff were also overwhelmingly opposed to the proposals. In addition to requesting that the County Council not close the care homes, consultees requested that the County Council refurbish the existing sites.

In the Cabinet reports and under questioning at the Cabinet meeting on 22 June 2022, it was not shown that consultation feedback was conscientiously considered, and there was insufficient evidence that the consultation responses had been taken into account.

This leaves the County Council open to judicial review and to complaints to the local government ombudsman.

Para 7.02.8 They should be properly reasoned and alternatives that are discounted should be identified and the reasons for their rejection explained adequately.

In resolving to close Bohanam House, Orchard House, The Elms and Westbury Court, Cabinet failed sufficiently demonstrate the reason for discounting alternatives to closing the four care homes.

Prior to the pandemic, all four care homes had high occupancy levels, at over 80 per cent. Covid-19 led to a significant decrease in the number of occupants, however insufficient information was provided on why occupancy levels would not be expected to return to pre-pandemic levels.

Similarly, the company tasked with running the consultation recommended that Cabinet considered the possibility of refurbishing the care homes instead of closing them. This received only a cursory response which was insufficient given the amount of disruption and distress that closing the care homes will have on residents, family members and staff.

Dated: 29/06/2022

Signed

- 1.) Cllr Jeremy Hilton
- 2.) Cllr Lisa Spivey
- 3.) Cllr John Bloxsom
- 4.) Cllr David Drew
- 5.) Cllr Chris McFarling
- 6.) Cllr Beki Hoyland