

**OVERVIEW AND SCRUTINY COMMITTEE
28 SEPTEMBER 2022**

***PART 1 – PUBLIC DOCUMENT**

Call to account of delegated decision taken on 13 August 2021 in accordance with ‘Special Urgency’ provisions contained in the Council’s Constitution

REPORT OF THE LEADER OF THE COUNCIL, MANAGING DIRECTOR AND STRATEGIC HOUSING MANAGER

PRIORITY: PEOPLE FIRST

1. SUMMARY

- 1.1 To provide an account of the decision taken on 13 August 2021 to allocate £200k of homelessness funding received from the (as was) Ministry of Housing, Communities and Local Government to grant fund the development of an accommodation and support scheme for homeless single people in North Hertfordshire. The scheme is provided by Keystage Housing at the former Lord Lister hotel in Hitchin.
- 1.2 The decision was considered in accordance with ‘Special Urgency’ provisions as set out in the Council’s Constitution.

2. STEPS TO DATE

- 2.1 This call to account was made at the Overview and Scrutiny Committee meeting of 13 June 2022, following a proposal at Annual Council of 26 May 2022.
- 2.2 The Chair of the Overview and Scrutiny committee agreed to defer the call to account until after the Planning Control Committee has decided Keystage Housing’s application for the former Lord Lister hotel, which is due to be considered on 20 September 2022 (at the time of writing).

3. INFORMATION TO NOTE

3.1 Context

- 3.1.1 The Covid-19 pandemic dramatically changed the prevailing landscape of homelessness legislation, with the government issuing its ‘Everyone In’ directive in March 2020. This required local authorities to provide emergency accommodation with immediate effect for all those sleeping rough in their areas, including those *at risk* of sleeping rough. ‘Everyone In’ continued to remain in operation throughout 2021/22 and whilst the initial stages of the rollout of the vaccination programme appeared to be successful, national and/or localised lockdowns posed a very real threat into the winter of 2021/22 (please see Appendix 1 for relevant government announcements).
- 3.1.2 The pandemic revealed a significant, previously hidden, cohort of local single people (and some couples) living chaotic lives in unstable accommodation and many with unmet complex support needs. Of the 150 single households that the Council placed in temporary accommodation over 2021/22 for instance, over 60% had two or more support needs. Poor mental health was by far the most common support need with over half of households reporting this (more detail on this is provided in the [information note](#) to Cabinet on 21 June 2022).

- 3.1.3 The additional demand due to Covid-19, on top of the Council's usual statutory duties towards homeless families and vulnerable households and those at risk of homelessness, has placed exceptional pressure on existing local accommodation and support services. This has resulted in significant hotel usage – by the end of May 2021, there were 67 households (the vast majority single people) in hotels with many struggling to cope without the necessary facilities and support, whilst the Council faced soaring hotel costs, in excess of £400k over the last two financial years.
- 3.1.4 Whilst the Council has these immediate duties towards homeless households, it has been our experience that many of our vulnerable clients have been unable to access, or have not met thresholds of need, for other statutory support services such as Herts County Council, Herts Partnership Foundation Trust, Probation, the NHS and other bodies. As a result of these unmet support needs, many clients have struggled to cope and have been evicted from multiple accommodation placements or refused access to services in a cycle that is repeated over the course of years.

Provision of support-based accommodation

- 3.1.5 There is a severe lack of accommodation options locally for single homeless people with complex needs; the Council does not possess its own housing stock and viable sites for new service provision rarely arise, a key factor limiting any additional provision. St Mungos, an organisation specialising in helping single homeless people, secured planning permission for the redevelopment of the Sanctuary site in Hitchin in 2013 for a new hostel, however this did not progress and shortly afterwards St Mungos withdrew from the district. There are also generally few providers in this specialist field and opportunities to bring in new providers with an accommodation site are extremely difficult to realise. For some years now, there has only been one main service provider locally (Haven First) which generally operates at full capacity, usually with a list of people waiting to access the accommodation. The provision of additional accommodation for this client group is therefore highlighted as a priority in the Council's Housing Strategy (2019-2024) and also as an action in its current Council Delivery Plan.
- 3.1.6 It should also be noted that Haven First and another specialist provider, Emerging Futures, have both made additional efforts to help the Council meet the extra demand from this client group over recent years. However they both found the local housing market to be very difficult and despite the availability of government funding, were unable to secure the necessary housing to deliver local accommodation-based support schemes.
- 3.1.7 A planning application submitted by Haven First for a 40-unit hostel at Protea Way in Letchworth - to help meet the needs of those with complex needs – secured planning permission in February 2021. However there remains some uncertainty around this project due to significant increases in construction costs and the recent announcement of the merger of Haven First with One YMCA that is due to complete on 1 April 2023. As a result, there is no certainty over if and when the new facility will be delivered.
- 3.1.8 Due to the low overall capacity of specialist accommodation-based support services in the district, there are limited options to help local people with their support needs and many are finding it extremely difficult to access the appropriate service at the right time. There is evidence of people with these complex needs, who have approached the Council for housing assistance, coming to serious long-term harm, including the deaths of three local people in the last year or so. Although there are occasional opportunities to utilise vacancies in accommodation schemes located in other districts/boroughs across the county, many local people are reluctant to leave North Herts for unfamiliar areas, with some preferring to remain sleeping rough instead.

- 3.1.9 The universal operating model for services for this client group is accommodation with on-site round-the-clock support with external specialist support brought in as required that is tailored to individuals' needs. This enables clients to develop independent living skills and recover from trauma in a stable, supportive environment whilst also being helped and encouraged to access specialist support for e.g. substance misuse and mental health issues. Although the majority of placements are successful and clients move on positively (eg into their own private rented unit), it must be acknowledged that owing to the often entrenched and complex support needs of this client group, despite the considerable efforts of specialist agencies, there will be occasions where the placement fails, and they are required to leave the accommodation.
- 3.1.10 During the course of the pandemic, the Council and its partners have sought to develop an integrated and sustainable pathway of accommodation and support services in order to meet the unprecedented demand from single homeless people. Should the Keystage service receive planning permission, it would provide a significant part of this pathway and it also, crucially, builds in stability, with the Council securing exclusive access to the service for local people for the next ten years. Keystage has also agreed the service can be modified to meet any changing needs identified by the Council throughout this period.

3.2 Decision

Timeline

- 3.2.1 Due to the lack of alternative options for meeting the accommodation and support needs of this client group, Council officers contacted Keystage Housing in February 2021 following a presentation Keystage made to Hertfordshire Heads of Housing in the previous September. There were no other provider options at the time with existing local services at full capacity and Key stage's base in Luton appeared to offer practical advantages. After the introductory meeting with Keystage Housing, Luton Borough Council were approached in their role as a commissioner of Keystage's service in order to discuss their view of performance and a detailed and lengthy meeting was held in May 2021. Luton offered a resoundingly positive endorsement of the service provided by Keystage Housing and the success they had in delivery of positive outcomes for people with complex needs (see Part 2 report Appendices).
- 3.2.2 Keystage were invited to meet the Director of Regulatory Services and Cllr Gary Grindal, the Executive Member for Housing and Environmental Health in June 2021 and subsequently produced a written proposal dated 25 June 2021 (See Part 2 report Appendices). It should be highlighted this was not a pure market situation – Keystage presented a complete proposal – accommodation (which is extremely difficult to source in the district) and support to help the Council to meet the complex needs of some of its residents by partnering with a specialist provider delivering an industry standard support model. No other alternative options existed at the time, it was a choice between accepting or declining the Keystage proposal.
- 3.2.3 On 29 July 2021, at the Council's internal confidential Covid Response and Recovery Project Board meeting, with Cllrs Dennis-Harburg, Clare Strong, Morgan Derbyshire, Sam Collins, Ian Albert and Paul Clark present, the Lord Lister / Keystage proposal was briefly outlined (see Part 2 report Appendices). Cllr Collins and Cllr Clark were ward members, with Cllr Clark also being the deputy leader at the time. As the discussions between both parties became more advanced, Cllr Grindal offered his support for the proposal on 11 August 2021.
- 3.2.4 Keystage were involved with lengthy and protracted negotiations with the former owners of the Lord Lister hotel and the Chief Executive of Keystage advised the

owners were considering renewing their business insurances to continue operating as a hotel, providing a final deadline of 31 August for the details to be agreed. This deadline meant the opportunity would no longer be available at the time of the next Cabinet meeting, which was scheduled for 21 September 2021. As a result, the proposal was made to employ 'Special Urgency' provisions contained in the Council's Constitution (please see Appendix 2, which is the email dated 12 August 2021 to Cllr Dennis-Harburg and Cllr David Levett as Leader of the Council and Chair of the Overview and Scrutiny Committee in accordance with the procedure). The decision was also published in Members Information Service, although this did not explicitly reference the Lord Lister site (wording used was "a former hotel in Hitchin") because the sale had yet to be contractually agreed.

Grant funding awarded to Keystage Housing

- 3.2.5 The decision taken on 13 August 2021 (please see Appendix 3) agreed the allocation of £200k of Homelessness Prevention Grant (HPG) funding for the development of the Keystage accommodation and support scheme based at the former Lord Lister hotel. In total, the Council received £340k of HPG funding from central government for 2021/22 and at the time of the decision, about £212k of the Grant remained unallocated (the remaining £12k was spent on homelessness prevention activity).
- 3.2.6 HPG is an annual grant to local housing authorities from central government (replacing the former Flexible Homelessness Support Grant and Homelessness Reduction Grant and merging them into a single funding stream). It is ring-fenced for use in managing homelessness pressures and supporting those who are at risk of homelessness and rough sleeping.
- 3.2.7 The Department for Levelling Up, Housing and Communities (DLUHC) maintains regular contact with the Council in its administering of grant monies and monitoring of grant use and service provision. The Council's s151 officer sought and received approval from DLUHC for the use of the HPG for the Keystage scheme (please see Appendix 4). A DLUHC representative also visited the Lord Lister scheme in December 2021 to meet Keystage Housing, Hertfordshire County Council and North Herts Council officers to discuss the service and view the accommodation.
- 3.2.8 At its meeting in March 2019, when approving the Housing Strategy (2019-2024), the Cabinet resolved that:
- "In the event the MHCLG [Ministry of Housing, Communities and Local Government] provides homelessness funding beyond the financial year 2019/20, the Cabinet authorises the Service Director – Regulatory, in consultation with the Executive Member for Housing and Environmental Health, to decide on the specific allocation of the funds in order to meet homelessness priorities, for the duration of the Strategy."*
- 3.2.9 Keystage has also been allocated the following grants, which have been received from DLUHC following successful Council bids to these government funding opportunities:
- £92k of Accommodation for Ex-offenders Scheme funding for the provision of an accommodation scheme for ex-offenders. This is not based at the Lord Lister site and it supports clients into private rented sector units that are sourced via local landlords/estate agents. This delegated decision was taken on 6 August 2021 by the Director of Regulatory Services.
 - £83k of Rough Sleeping Initiative 2021-22 funding for the provision of intensive support services at the Lord Lister scheme (from a total grant of £172k received, the remainder being allocated to Haven First for their similar service at the former Templars Hotel in

Baldock). This delegated decision was taken on 25 January 2022 by the Director of Regulatory Services.

'Special Urgency' provisions

3.2.10 As detailed in the 13 August 2021 decision, the report contained a key decision that would normally be considered by the Cabinet. However, due to the time limited nature of this opportunity, paragraph 15.15 of the Council's Constitution (that detail the requirements for 'Special Urgency') have been employed so that this matter can be considered in a timely way.

3.2.11 The Constitution states the following in relation to the Special Urgency provisions:

"15.15 Special Urgency

15.15.1 If by virtue of the date a decision which must be taken under Rule 15.14 (General Exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chair, or if the Chair is unavailable to act, then the agreement of the Vice-Chair of the Overview and Scrutiny Committee, the Chair of the Council, or in their absence, the Vice-Chair or Head of Paid Service will suffice.

15.15.2 As soon as reasonably practicable after the decision taker has obtained agreement under 15.15.1, the decision taker must make available at the Council Offices a notice setting out the reasons that the decision is urgent and cannot be reasonably deferred and arrange for this notice to be published on the Council's website. The notice will be circulated to Members."

3.2.12 The decision was deemed to be urgent, as detailed in the report dated 13 August 2021, as the opportunity was time limited. Without the urgent decision by the Council, Keystage would have not been able to progress their separate transaction to acquire the premises. Whilst the funding agreement was not entered into immediately, the decision itself enabled Keystage and the owners to progress with the rest of the transaction with some certainty concerning the funding arrangements.

3.2.13 The above procedure, outlined at 15.15.1 and 15.15.2 of the Constitution, was complied with by officers. The draft delegated decision report was sent to the Leader and to the Chair of Overview and Scrutiny Committee on the 12 August 2021; please see [Notice of reasons for Urgency](#) that was published on the Council's website.

3.2.14 The grant funding received from the government has been provided in accordance with the Council's role as the 'local housing authority'. As a result, the decision was considered and taken by the Managing Director to avoid any potential conflict for the Director of Regulatory Services who also has responsibility for the Council's role of 'local planning authority'.

3.2.15 The Council's Monitoring Officer was involved at the time of the delegated decision being made in August 2021 and confirmed the 'Special Urgency' provisions were followed correctly.

Contractual documents (summarised & copies of contract, see Part 2 Appendices)

3.2.16 Given the time frame and period when these documents were required, external legal support was commissioned for the drafting of the inter-relating contractual documents, being:

- Grant Agreement;
- Lease;
- Nomination Agreement;
- Guarantee and Indemnity Agreement

3.2.17 The Grant Agreement between the Council and Keystage Properties Ltd (which is a Private Registered Provider of Social Housing regulated by the government) and O'Grady Investments Limited contains the following key provisions over the ten-year contract period:

- accommodation (en-suite bedrooms) and support for 21 (mainly) single people at any one time;
- comprehensive 24/7 support to residents, with the ultimate aim of resettlement into independent accommodation. Residents will be supported to address needs such as mental health issues and drug/alcohol misuse and space will be available for onsite multi-agency working to assist with this;
- Council to have exclusive access to all vacancies for local people;
- locally and remotely accessed CCTV in all external and internal communal areas;
- Keystage to seek formal planning approval for the intended use of the building at the earliest opportunity and any subsequent regulatory requirements adhered to without delay;
- Keystage to apply for future grants in order to deliver as many kitchenette rooms as possible.

3.2.18 As detailed in the 13 August 2021 decision, the Grant Agreement contains conditions to protect the Council's interests, including:

- Keystage shall make a pro-rata return of any granted funds should the use, including exclusive use, of the property for the purposes of providing housing not be available; to cover the period of time of which the property was not available in accordance with the terms of the funding agreement;
- Keystage shall commit to meeting at least annually to review and adapt, as necessary, the operation of the property for the purposes of meeting the housing needs of the district, as determined by the Council;
- Additionally, for the initial period of the funding agreement, as an additional safeguard, the Chief Executive of Keystage Housing will provide (and has provided) the Council with a 'Personal Guarantee' regarding payment of an appropriate amount of the grant funding in the event the business is unable to repay any clawback;
- Keystage would seek to register a Restriction against the title in favour of the Council to provide some additional best value security for the payment. We have received confirmation that the application to register the restriction has indeed been made in accordance with the contract.

3.3 Operational update

- 3.3.1 The Lord Lister building was acquired on 5 November 2021 and the first clients were accommodated by Keystage from 14 December 2021. The application for a change in planning use was lodged by Keystage on 20 January 2022; Keystage sincerely apologised for the delayed submission citing technical issues with the drawings for the building and staff shortages due to illness.
- 3.3.2 The scheme at the Lord Lister (called PAIRS, Provision for Assessment, Intervention and Resettlement Support) provides residents with en-suite accommodation *and support* to address individual clinical, psychological, and other needs. Ultimately, PAIRS aims to support residents to make positive moves into independent or settled accommodation.
- 3.3.3 PAIRS provides a package of targeted, individualised support for all its residents, including practical measures, such as ensuring that residents have bank accounts, are registered with GPs, and also that eligible benefits are in place. The team supports residents - recognising the complexities of their needs - to access appropriate interventions with external agencies and specialist assistance (at the current time, seven residents are receiving mental health support and four are in active recovery for substance misuse). Positive relationships have been developed working alongside Adult Social Care, Community Mental Health Services, Public Health, local Probation services and DLUHC and it is clear the service is already highly valued by partner agencies. PAIRS has also been working closely with Helping Herts Homeless, Feed Up Warm Up, MIND and other charities such as the Living Room and Resolve. The PAIRS team also provide onsite support with workshops on job and CV training, art therapy, cooking and nutrition amongst others.
- 3.3.4 All PAIRS residents are referred by the Council's housing team and are subsequently assessed to ensure that the scheme is appropriate for their needs. Due to local concerns around anti-social behaviour arising from the scheme, the Council asked Keystage to limit occupancy to ten rooms (out of a possible 21) until the outcome of the planning application is decided (at the same time, the Council had on average between 10-15 individuals in hotels at any one time over recent months, with many others waiting for hostel space and some remaining sleeping rough).
- 3.3.5 In the first six months of operation, to June 2022, there have been 19 placements at PAIRS, mostly single males but also two couples (a further two individuals were placed in Keystage schemes outside of the district). In total the Council has referred 34 individuals to the scheme but not all were suitable for the scheme or were unable to be accepted due to capacity restraints or past histories of abuse/violence with existing residents. Although the service is running significantly below capacity, with the low number of residents making it more difficult to operate the successful hub model that Keystage deliver elsewhere, during this period, seven individuals have been helped to resettle - four into social housing, one into the private rented sector and two into supported accommodation outside of the district. Many of the residents have complex, entrenched needs and will therefore remain at PAIRS for some time until they are ready to move-on to more independent living.
- 3.3.6 A small number of placements at the Lord Lister have broken down with residents being asked to leave or moved to other schemes. These mainly occurred earlier in the scheme's operation and have been well publicised. There has been much local reporting of anti-social behaviour and significant concern amongst local residents, especially immediate neighbours. As and when any incidents have required intervention, Keystage has managed these efficiently to attempt to limit the impact, especially for the local community, and they have provided subsequent updates to

relevant parties, sharing appropriate information including how a similar situation will be prevented from occurring in future.

- 3.3.7 The PAIRS team has developed a good working relationship with the Community Policing team and are likewise committed to building positive relationships with the local community and other stakeholders. A community engagement event was held on 25 February 2022, with local neighbours, partners, councillors, and businesses invited to visit the service and continuous engagement is ongoing with open offers to the local community to meet Keystage staff and discuss the service on offer. Keystage has also provided information on its website, highlighting their service ambitions as well as a specific impact report on the Lord Lister scheme.
- 3.3.8 The planning application for change of use of the site was scheduled to be considered by the Planning Control Committee on 23 June 2022. The decision was deferred and is scheduled to be considered further on 20 September 2022. As anti-social behaviour has been raised as part of the Planning Control Committee proceedings and their consideration, it is not covered further in this report.

4. LESSONS IDENTIFIED AND NEXT STEPS

- 4.1 The Covid-19 pandemic created unprecedented demand for housing assistance from the district's residents and the decision made on 13 August 2021 needs to be considered within this unique context. However, since the decision was made, a number of potential lessons have been identified:
- The special urgency provision was employed on this occasion due to the limited timeframe for the acquisition of the Lord Lister. However due to the potential community interest in the scheme, the decision could alternatively have been listed for consideration at the Cabinet meeting on 21 September 2021, although this would have been after the deadline by which Keystage required a decision from the Council. The benefits of waiting for a scheduled Cabinet meeting would have to be weighed up against the risk of losing the overall opportunity (it is also worth noting that even if consideration had been delayed until Cabinet in September 2021, the detail of the report would inevitably have had to be in part 2 due to the ongoing contractual negotiations and therefore this would not have been a mechanism for notifying the public);
 - Although in this instance due to the demand on services the Council required the scheme to mobilise at the earliest opportunity, where there are planning considerations, there could be contractual requirements to ensure the planning process is engaged pro-actively, rather than retrospectively (ie prior to the first occupation of schemes) where there is likely to be significant community interest and/or concerns;
 - Although the Covid Response and Recovery Project Board (which included two ward councillors) was alerted to the potential Keystage proposal on 29 July 2021, concerted efforts should be made in future to involve all relevant Members (for example, other Hitchin Councillors) at the earliest stage;
 - Where there are potentially contentious accommodation projects, early pro-active communications with the local community should be initiated, with the Council facilitating these to ensure a holistic approach and these should provide enough detail to reassure the community on any likely concerns (it is worth noting however that these types of schemes typically generate a lot of community feedback, much of this being negative);
 - Professional references for potential service providers should be obtained in writing at the time of the request, with as many relevant references obtained as possible;

- The pandemic highlighted a significant need for accommodation-based support services for single people locally. Further work is being undertaken with Herts CC and other relevant partners to build additional capacity into a comprehensive pathway from homelessness to independent resettlement, including supporting individuals at an earlier stage before crisis point (this approach is of course subject to sufficient capacity and resources).
- 4.2 At the time of writing this report the decision of the Planning Control Committee, scheduled for 20 September 2022, is yet to be known. Officers will:
- Continue to attempt to increase engagement with specialist statutory agencies including the NHS and relevant departments in Herts CC, to improve the support that is provided for residents of the PAIRS scheme;
 - Work closely with Keystage Housing regarding maintaining the regular communication that has been taking place with local stakeholders, especially the local community and regular Councillor briefings.

5. APPENDICES

- 5.1 Appendix 1: Timeline of relevant government announcements
- 5.2 Appendix 2: Email chain regarding Special Urgency decision
- 5.3 Appendix 3: Record of decision made under Delegated Authority on 13 August 2021
- 5.4 Appendix 4: DLUHC confirmation email regarding proposed use of Homelessness Prevention Grant funding

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7. BACKGROUND PAPERS

- 7.1 DLUHC's Homelessness Prevention Grant allocations 2021/22: [Homelessness Prevention Grant: 2021 to 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/homelessness-prevention-grant-2021-to-2022)
- 7.2 Council Constitution: [Council constitution | North Herts Council \(north-herts.gov.uk\)](https://www.north-herts.gov.uk/council-constitution)
- 7.3 Keystage Housing Impact Report: [Impact Reports – Keystage Housing](#)