

Future of Swindon Borough Council Operated Nurseries

Cabinet

Date: 16th March 2016

Author:	Cabinet Member for Children's Services Interim Director Children's Services / Head of Children, Families and Community Health
Wards:	Eastcott, Penhill and Upper Stratton
Locality Affected:	Town Centre and North East
Parishes Affected:	None

1. Purpose and Reasons

- 1.1 To report on the consultation process and responses received on the future provision of the Children's Nursery and Bright Start currently operated by the Council.
- 1.2 To provide a clear way forward on the future of the Children's Nursery and Bright Start Nursery.
- 1.3 The recommendations of this report support the Council's priority to 'offer education opportunities that lead to the right skills and right jobs in the right place and the delivery of One Swindon Outcome 'We can all benefit from a growing economy and a better Town Centre'. The recommendations support the School Place Planning Strategy by providing additional education places where identified.

2. Recommendations

Cabinet is recommended to:

- 2.1 Note the feedback obtained from service users documented in the consultation analysis (**Appendix 1**)
- 2.2 Authorise the Interim Director of Children's Services (DCS);
 - 2.2.1 To market Bright Start Nursery to seek a new provider to operate the provision under a lease for the building from September 2016
 - 2.2.2 To close the Children's Nursery by September 2016 and provide assistance to parents seeking alternative nursery places and to nursery staff to seek new positions of employment for the reasons provided in paragraph 3.4.
- 2.3 Authorise the Director of Law and Democratic Services, in consultation with the Interim Director of Children's Services and the Board Director Resources, to enter into a lease with the new provider on such terms as he considers necessary to protect the Council's interests.

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- 2.4 Acknowledge the high quality service and professionalism shown throughout the consultation period by the staff at the Children's Nursery and at Bright Start and to emphasise that the quality of the provision is not the reason for these proposals.

3. Detail

Background

- 3.1 Across the Borough, the early year's education and childcare places are provided by a total of 254 small and large nursery chains, independent nurseries, preschools, maintained primary schools and childminders.
- 3.2 At present, the Council directly operates two settings known as The Children's Nursery, Euclid Street and The Bright Start Nursery, Penhill. They both deliver early year's education and childcare (0.008%) of the total provision available in Swindon).
- 3.3 The details about the provision delivered from these two facilities are set out below;
- 3.3.1 The Children's Nursery is located next to the Civic Campus on Euclid Street. The nursery is currently rated as 'good' by Ofsted and has 8 places for 2-year old funded children and 68 places for 3 and 4 year old funded children receiving early education on a part time basis. The provision has further capacity to provide childcare for a total of 92 children at any one time (including the 76 places previously referred to). This childcare is offered flexibly 8am-6pm to meet the demands of working families and parents pay for sessions based on their individual requirements. The provision is run from 5 prefabricated buildings which have been adapted but are past their useful lifespan and for this reason Officers in the Council's property team have advised against further investment in these buildings;
- 3.3.2 Bright Start Nursery in Penhill is also currently rated as 'good' by Ofsted. The nursery has at this time 17 places filled by 2-year old funded children and 26 places filled by 3 and 4 year old funded children receiving early education on a part time basis. The provision has further capacity to provide childcare for a total of 34 children at any one time. This childcare is offered 8am-6pm to meet the demands of working families and parents who pay for sessions based on their individual requirements.
- 3.4 The reasons for the proposals are:
- 3.4.1 The Council has a statutory duty to ensure there are sufficient early years places in Swindon, however there are no requirements to operate them directly.

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- 3.4.2 As such the operation of the nursery is not part of the Council's core function and there is no longer the management capacity or expertise within the organisation to continue to run this provision.
- 3.4.3 The private and voluntary sector are providing sufficient places and new settings are now open locally.
- 3.4.4 The temporary nature of the buildings housing The Children's Nursery and the length of their usage now means they are in poor condition and of a poor standard. The buildings are past their useful life and will require significant capital investment to make fit for purpose.
- 3.5 In December 2015, Cabinet considered a report that summarised the outcome of soft market testing that had taken place to inform officers and elected members about options for the future of the Council operated nurseries. Cabinet members authorised consultation to commence on the marketing of Bright Start Nursery and the closure of the Childrens Nursery (Cabinet minute 2015/16 48 refers)

Consultation

- 3.6 There is no prescribed statutory process set out for changes to early year's provision and the Department for Education (DfE) does not identify who should be consulted, but as per the decision taken by Cabinet in December 2015, a full and detailed consultation was undertaken with service users who would be directly affected as a result of the proposals.
- 3.7 Although there are two settings included in the proposals and two different proposals, the consultation responses and the rest of this report particularly focus on the proposed closure of The Children's Nursery as no comments were received re Brightstart. .
- 3.8 The purpose of the consultation was to inform service users and staff and to gauge the potential impact on individuals. An analysis of the consultation has been prepared and is attached at **Appendix 1**. There were a number of responses relating to changes to individual circumstances as a result of the proposal. Whilst the general themes have been captured in the analysis, all individual responses have been provided in a separate folder to the Cabinet.
- 3.9 A consultation session was held on the 18th January 2016 inviting service users to hear the reasons for the two different recommendations and to give the opportunity to ask any questions. A summary of this session is included as **Appendix 2**.

Consultation feedback and issues raised

- 3.10 Responses to the consultation requested a new building be provided by SBC for the Children's Nursery to be funded through the income generated by the setting. However, levels of overall debt for SBC have increased considerably over the

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last few years, with overall Council general fund debt currently £89m (although an underlying borrowing requirement is £261m) and net debt charges of £9.7m per annum. Options for capital funding of new facilities should, therefore, consider all possible options in order to try to minimise the effect on the revenue budget of increased debt for the Council.

- 3.11 An internal study was commissioned in late 2014/early 2015 to assess the feasibility of relocating The Children's Nursery building to an alternative location within the Civic campus, However, the income generated at the time would not cover the revenue impact of Capital Borrowing and the income is not set at a guaranteed level. The proposal was consider unfeasible.
- 3.12 A condition survey was carried out in September 2014 to estimate costs to bring the building up to current Ofsted standards of approximately £277K. These figures have come under scrutiny during the consultation process and the Council has been wrongly accused of deliberate under investment in the Childrens Nursery to bring about a proposal to close.
- 3.13 Over the last 2.5 years, there has been £15K investment in the facility in addition to £23K annually to cover utilities, National Non-Domestic Rates, cleaning and services. However, advice from property colleagues is that further investment would not be advised as the facility has in their professional view, exceeded its useful life span and is no longer fit for purpose.
- 3.14 In June 2015, a Cabinet Briefing Note authorised officers to conduct a soft market testing exercise during the summer 2015. Before undertaking the exercise, officers held meetings with the staff at both nurseries. The meetings focused on the reasons for the testing, the proposed questions and also provided an opportunity for them to contribute to the exercise.
- 3.15 Early years providers and developers were also consulted in order to gain an understanding and overview of the current early year's market in Swindon and to determine the likelihood of potential interest in both settings. A copy of the soft market testing document was included as an appendix to the December 2015 Cabinet report.
- 3.16 As reported in the report to Cabinet in December 2015, feedback obtained from the exercise suggested that whilst the location and capacity of The Children's Nursery's is appealing to providers, the amount of estimated capital needed to complete the immediate maintenance needs or provide a new facility is considered unattractive in business terms.
- 3.17 During the process, concern was expressed by a small number of service users about the process of consultation and in particular that the target audience did not include all Council staff members who could be impacted now or in the future by the potential closure of the Childrens Nursery. As a result all SBC staff were alerted to the Cabinet paper and its recommendations and to the opportunity to

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express their views through the consultation process via Newsround and the intranet.

- 3.18 In addition parents expressed concern that they had entered into an agreement with the Children's Nursery that includes a 6 month notice period" in the event of a change in circumstances, such as closure". However, officers are confident that the proposed date of closure allows adequate time to seek alternative provision and for school transition to take place.
- 3.19 The consultation also highlighted that 16 families who are Council staff use The Children's Nursery for their own childcare needs. Of these 16 there are 10 families that access a fees direct scheme which offers a tax saving to these individuals on their childcare costs. 6 use the child care voucher scheme.
- 3.20 Individual meetings with all of these staff members and Human Resources were held to enable these individuals the opportunity to discuss their own personal circumstances should the nursery close. Alternative benefits for those using the fees direct scheme, such as childcare vouchers are available and widely used by the majority of 489 families within the Council that access other childcare providers.
- 3.21 The fees direct scheme can be offered at any nursery provision, which is operated from a Council owned building or on Council land and this comprises approximately 75% of the current Swindon private childcare market. Therefore, there is great potential to offer fees direct more widely. Conversations are taking place with private providers to see if this can be offered. Further childcare discounts and benefits for Council staff are also being explored as a result of the consultation and feedback from staff members in relation to childcare costs.
- 3.22 During the consultation period, the Government announced that Swindon had been successful in bidding to be a pilot area for the national scheme to increase free childcare from 15 hours to 30 hours from September 2016 for working families. Parent using The Children's Nursery asked during the consultation if this would change the proposal to close the Children's Nursery.
- 3.23 The Government intended to bring the new entitlement into force from September 2017 and this was factored into the consideration of the proposal. The pilot would affect a small number of families and the Council is confident that there is existing capacity to meet the current and new entitlement in September 2016 and September 2017 without the Children's Nursery.
- 3.24 Throughout the period of consultation service users reported on many occasions that both the staff and the service they delivered at the children's nursery are of an excellent quality. Nursery staff have demonstrated professional behaviour throughout the consultation period and service users asked that this be acknowledged by Cabinet. Cabinet are reminded that the quality of the provision isn't the reason for the proposal.

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- 3.25 Whilst the majority of responses received during the consultation were from service users at the Children's nursery and were against the proposal, they represented a small number of service users and are a small percentage of the total number of SBC staff who access child-care and early year's services. There is no evidence received during the consultation of any impact on service users that could not be mitigated by provision in the existing early years and childcare market locally in Swindon.
- 3.26 The recommendation following consideration of all of the information is to close The Children's Nursery by September 2016 and to market the Bright Start nursery in the same time frame for the following reasons;
- 3.28.1 The Council has a statutory duty to ensure there are sufficient early years places in Swindon, however there are no requirements to operate them directly.
- 3.28.2 The operation of the nurseries is not part of the Council's core function and there is no longer the management capacity or expertise within the organisation to continue to run this provision.
- 3.28.3 The private and voluntary sector are providing sufficient places and new settings are open locally.
- 3.28.4 The temporary nature of the facilities at the Children's Nursery and their poor condition mean the buildings are considered to be past their useful life and will continue to present on-going and costly maintenance problem.

Next Steps

- 3.27 To follow the relevant SBC policies and procedures to implement the decision of cabinet as follows:
- 3.28 To put Bright Start Nursery out to tender to seek a new provider. Marketing particulars will be distributed and a clear and transparent criteria set to select a high quality provider who will continue to offer flexible early education and childcare.
- 3.29 Staff at Bright Start Nursery would be protected under TUPE terms and conditions, support will be provided by Human Resources to ensure this.
- 3.30 It should be noted that the proposed timing to close The Children's Nursery at the end of August 2016 is suggested to minimise the impact for parents and children who will transition between nursery and school.
- 3.31 As stated above discount and benefits are being negotiated for Council staff members who would like to use nursery provision. There are also multiple preschool provisions locally, should parents not require the option of full day care provision.

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- 3.32 The Local Authority is confident that there are sufficient places available locally and will be keen to ensure assistance is provided to parents to seek alternative provision to suit their individual family requirements.
- 3.33 Some parents have already begun to seek alternative provision. The numbers of funded children accessing the provision have fallen by 40% since the original proposal was made in December 2015 and the decision to enter into consultation with service users was made.
- 3.34 To note, numbers of funded children at Bright Start Nursery have risen by 12% since December 2015. This may have a positive impact on attractiveness of the provision to potential new providers.

30 hours entitlement for 3 and 4 year olds

- 3.35 The Government have announced an increase in funded hours for 3 and 4 year olds from September 2017. Families where both parents are working 16 or more hours per week will be entitled to 30 hours funding per week, where at the moment the entitlement is capped at 15 hours per week.
- 3.36 Swindon has been selected as one of eight early implementer Local Authorities. This will enable the Council to offer the additional hours a year early to around 10% of all 3 and 4 year olds as part of a pilot in collaboration with the Department for Education.
- 3.37 The criteria has not yet set, however should not impact on the availability of spaces in the current market as many families are already accessing additional hours over and above their free funding entitlement.

4. Alternative Options

- 4.1 The consultation that was authorised by Cabinet in December 2015 focused on the impact of the proposal to market Bright Start and of the proposed closure of the Children's Nursery.
- 4.2 Some responses to the consultation requested a new building be provided by SBC for the Children's Nursery to be funded through the income generated by the setting. However for the reasons set out in this report at 3.10 -3.13 that option would not be feasible
- 4.3 The consultation undertaken has identified a range of needs and issues from service users that have been identified and addressed within the main body of the report. We acknowledge that the decision to close a service accessed by babies and young children has an emotional impact on those involved and this cannot be mitigated by alternative practical options. We are confident that staff and parents will work together to ensure this is managed carefully.

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- 4.4 Alternative options for the nurseries were considered during the soft market testing exercise and informed the recommendations to Cabinet in December 2015.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 The Children's Nursery is budgeted to make a £74k contribution towards Children Services overheads for the 2016/17 financial year and Bright Start is forecasting to break even for the same period. Repair, maintenance and compliance for the buildings for the past two years indicates there is an on-going financial implication in the region of £14K per annum for the Childrens Nursery and £13k for Bright Start. If the Children's Nursery is closed and Bright Start leased to an alternative provider there would be a saving to the Repairs and Maintenance budget of £27k to partly offset the loss of profit.
- 5.2 The preferred option is for the Children's Nursery to close in September 2016 and therefore there will be a part year net impact of £23.5k in 2016/17. This has been included in the Council budget for 2016/17.
- 5.3 There is a substantial backlog of maintenance on the Children's Nursery site in the region of £250K, which if the Council were to retain the site would need to be addressed. However, as stated paragraph 3.7 additional significant investments would also be required to bring the building up to modern standards. The £250k just for immediate repairs would not resolve the suitability issues.
- 5.4 The staff at the Children's Nursery will be entitled to redundancy payments should the nursery close. It is estimated that this will be approximately £30K.

Legal and Human Rights Implications

- 5.5 The Council has a responsibility to ensure that there are sufficient early education places available.
- 5.6 Legal and Human Rights considerations have been taken into account fully in compiling this report. It is considered that the recommendations of this report are compatible with Convention rights.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.7 All staff at Bright Start Nursery will be protected by the TUPE terms and conditions if the Council is successful transferring to a new provider.
- 5.8 All staff at The Children's Nursery will be protected under employment law and entitled to redundancy payments where applicable. Full support will be offered if the decision is made to close the nursery to seek new employment opportunities.
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- 5.9 SBC staff who are using The Children's Nursery will continue to be offered support and to seek new provision and to make choices to minimise impact on their own personal financial circumstances.

Diversity Impact Assessment

- 5.10 A revised Diversity Impact Assessment (DIA) has been completed and is available on request from the author of this paper.
- 5.11 There deemed to be no potential adverse impact on the basis of religion, sexual orientation, marital/civil partnership status or pregnancy/maternity.

6. Consultees

- 6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

7. Background Papers

- 7.1 Future of Swindon Borough Council Operated Nurseries – report dated 9th December 2015

8. Appendices

- 8.1 Appendix 1 – Consultation Analysis Document
- 8.2 Appendix 2 – Record of consultation meeting (18th January 2016)

9. Key Decision/Decision in Cabinet Work Programme and Forward Plan

- 9.1 This is a Key Decision and is included in the Cabinet Work Programme and Forward Plan for Month Year.