

Division(s):

CABINET – 17 SEPTEMBER 2013

EDWARD FEILD NURSERY SCHOOL - PROPOSAL TO CLOSE AND PROVIDE ALTERNATIVE EARLY YEARS PROVISION

Report by Director for Children's Services

Introduction

1. The Headteacher and Governing Body of Edward Feild Nursery and Primary School wish to review and streamline the early years provision on site, and have applied to close the Nursery School with effect from 31 December 2013. If agreed, alternative places will be provided on site by expansion of the existing Robin Playgroup. The intention is to maintain the same level of high quality early years places and to improve the financial viability and long term future of this provision.
2. A report on the proposal was submitted to Cabinet following Stage 1 consultation. On 21 May 2013, Cabinet agreed the recommendation to publish a statutory notice for the closure of the Nursery School.
3. Two responses - one objection and one in support of the proposal - were received during the 6 week period for representations.

Background

4. Edward Feild Primary and Edward Feild Nursery Schools in Kidlington share a site and buildings. They also share a Headteacher and Governing Body. However, for the purposes of financial accounting and Ofsted Inspection, they are separate. Additional early years provision on site includes Robin Playgroup, operating within the school buildings under a hire agreement.
5. In April 2011, the DfE required that Local Authorities should change the method of funding early years provision to a simplified and more transparent system. As a result, attached nursery schools, including Edward Feild Nursery, no longer have any financial advantage in operating separately from their federated primary school. In addition, funding is now based on actual attendance and there is no longer 'place-led' funding to cover empty places.
6. The duplication of work in having separate accounting, Ofsted inspection and management reporting systems is cumbersome and wasteful of resources.
7. Edward Feild Nursery School has decided that the best option to protect sustainable and high quality early years provision is for closure of the Nursery School and expansion of the on site Robin Playgroup. A Statutory Notice for the proposed closure was published on 11 June 2013.

8. The decision-making power in terms of determining the notice lies with the Cabinet or can be delegated to the Cabinet Member Education (if there have been no objections). In meeting as 'decision-maker' the Cabinet or Cabinet Member must have regard to government guidance and statutory timescales otherwise a decision can be referred to the independent Schools' Adjudicator for reconsideration.
9. In determining whether the proposal would meet legal requirements and represent a viable long term solution, the Lead Officer commissioned reports to investigate financial, quality and accommodation-related aspects of the proposed alternative provision. These were presented to Cabinet at Stage 1.

Legal Background

10. School expansions and closures are subject to statutory procedures, as established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 (as amended). Local authorities also have a duty to have regard to statutory guidance, in this particular case "Closing a Maintained Mainstream School" ("the Guidance"). When reaching a decision, the Cabinet must have regard to The Guidance. The Cabinet is referred in particular to pages 19 to 40 of The Guidance.
11. The Guidance on considering proposals for school closures sets out a list of factors to be considered by decision makers, which should not be taken to be exhaustive. A summary of the factors is:
 - a. **The effect on standards, school improvement and diversity.**
 - b. **The need for places**
 - c. **Impact on the community and travel**
 - d. **Special Educational Needs provision.**
 - e. **Specific age provision.** There should be a presumption against the closure of a nursery school unless the case for closure can demonstrate:
 - i. *the LA is consistently funding numbers of empty places;*
 - ii. *full consideration has been given to developing the school into a Sure Start Children's Centre, and there are clear, justifiable grounds for not doing so, for example: unsuitable accommodation, poor quality provision and low demand for places;*
 - iii. *plans to develop alternative provision clearly demonstrate that it will be at least as equal in terms of the quantity and quality of early years provision provided by the nursery school with no loss*

of expertise and specialism; and that

- iv. replacement provision is more accessible and more convenient for local parents.”*

These factors were fully considered at Stage 1 of the proposal and details may be seen in the report to Cabinet of 21 May which is available on the Council's website.

Consultation and Representations

12. An initial consultation was posted on Oxfordshire County Council's public consultations portal between 11 March 2013 and 17 April 2013, attracting one objection.
13. Following agreement by Cabinet to publish a statutory notice, a 6 week period for representations started on 11 June 2013. Two representations were received, one in support (from a childminder), and one against (from an owner/manager/committee member of a private or voluntary setting providing funded early years places).
14. The objection comments that continuity of provision by expanding the existing Robin Playgroup is logical. However the respondent questions the terms and conditions on which Robin Playgroup occupy the school premises. Also whether the reprovided places should have been put out to tender.
15. Possible tendering of the provision was not felt to be supporting continuity for parents or children, since the existing pre school was already on site. A good relationship already exists between Foundation stage staff from the school and the pre school, thus ensuring effective transitions for all children.
16. Schools wishing to lease space to pre-schools (or other suitable users) are at liberty to negotiate appropriate terms of the agreement. However, as part of the assessment of the school's proposal and as a condition of gaining Local Authority support, the Lead Officer stated at an early stage that the terms would need to be appropriate and fair, whilst not jeopardising the future financial viability of the expanded provision.
17. Robin Playgroup is a not for profit charity run solely for the benefit of its community. It has been the main feeder playgroup to Edward Feild for the past 40 years and has operated from the school site for a decade. A Local Authority Business Support Officer has assessed the Playgroup's financial situation and any small level of profit will be ploughed back into the playgroup to allow it to continue the high standard of care it already provides. For example, part of their outgoings will be to fund the involvement of a qualified teacher which is over and above the statutory requirement for this sector.

Financial and Staff Implications

18. Financial Viability

The business manager at Edward Feild Primary School has worked with the Financial Accountant in Customer Services to project the Nursery budget for the next two years if the closure does not take place. This predicts a deficit between £12k and £40k per annum, dependent on numbers of children accessing a place. The current arrangement is not judged to be financially viable in the longer term

19. The Childcare Business Development Officer has worked with Robin Playgroup to develop their business plans for the proposed expansion. It is a financially viable model as long as numbers of children attending remain constant, or grow. Edward Feild Primary School with the advice of the authority will develop a lease agreement for Robin Playgroup's use of the school premises, with a current indicative cost of £5.50 per hour or £13,000 per annum to cover all utilities and services. As long as Edward Feild Primary School remains a maintained school the authority will retain an arbitration role to ensure that the lease remains equitable and sustainable for both parties.
20. Equipment and Resources
The Nursery School is to transfer any resources bought for nursery age children from public funds to the Robin Playgroup without charge. The estimated net value of the transferring assets is £475. There are a number of items which will not transfer because they are felt to be more suitable for reception children or are fixed items that will be shared use with reception. Details are included at Annex 2.
21. Capital Funds
Edward Feild Nursery School holds a capital allocation of £4k which must be spent by the school or returned to the DfE. The school has applied for grant funding from the early years sufficiency: securing and developing existing places grant. This is to bring the toilet facilities used by Robin Playgroup up to the standard required by the Early Years Statutory Framework. The School will contribute its £4k capital funding allocation towards the toilet refurbishment project which totals almost £20k. The grant has been approved in principle, subject to the outcome of the current proposal.
22. Revenue Balance
The Schools and Early Years Finance Regulations provide that on closure of a maintained school any revenue balance automatically reverts to the maintaining authority whether surplus or deficit. The Regulations do not provide a power to transfer a maintained school's revenue balance to a Private provider.
23. Current forecasts are that the nursery school will run up a £5k deficit by end of December 2013. This deficit would fall to be met from unspent balances of DSG held by the authority. Schools Forum is aware that there will be some deficits on closure of maintained schools during 2013-14 that will need to be met from unspent central balances of DSG, and has agreed a budget for this.
24. In the event that the nursery school takes action during the remainder of the year which results in a surplus balance on closure, it is recommended that this

should be transferred to the Edward Feild Primary School with a condition that the funds should be spent to maintain or improve the parts of the premises occupied by or shared with the Robin Playgroup. Officers anticipate that the necessary Schools Forum approval for this transfer would likely be given.

25. Staff – The Headteacher and business manager have consulted a Human Resources officer in Customer Services. The Edward Feild Nursery School teacher is to be redeployed in the primary school, with the position becoming released through non-renewal of an existing temporary contract. The Headteacher will be 100% employed by the primary school. The School is intending to keep the Nursery Nurse working with the nursery children for the remainder of the 13/14 academic year as a transitional arrangement. This will improve continuity for the children and assist with potential training for any new staff in the Playgroup. The Playgroup will buy in the Nursery Nurse services from the school for this period and governors are willing for the school to contribute to costs for that period. The postholder is aware of this short term proposal, and also that there is no long term post in the primary school for a nursery nurse. Redundancy may have to be considered in the longer term, with any costs relating to this falling to the school. Administrative hours and roles will be reviewed jointly between the school and playgroup to include any services within the Playgroup's lease agreement e.g. reception duties. No further redundancy is envisaged. No TUPE process (in either direction) will be needed for any posts.

RECOMMENDATION

The Cabinet is RECOMMENDED to approve the closure of Edward Feild Nursery school with effect from 31 December 2013 subject to the following conditions:-

- That a lease for Robin Playgroup's use of the school premises be in place by the Nursery closure date.
- That as long as Edward Feild Primary School remains a maintained school the authority will retain an arbitration role to ensure that the lease remains equitable and sustainable for both parties.
- That any surplus in the Edward Feild Nursery School budget at closure is transferred to the Edward Feild Primary School budget and that the funds be spent to maintain or improve the parts of the premises occupied by or shared with the Robin Playgroup.
- The Nursery is to transfer any resources bought for nursery age children from public funds to Robin Playgroup without charge.

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August 2013