

Forward Plan reference number: FP/293/02/22

Report title: Early Years and Childcare Funding Panel Recommendations to award a lease at St Luke's Nursery, Runwell, SS11 7XX	
Report to: Councillor Beverley Egan - Cabinet Member for Children's Services and Early Years.	
Report author: Clare Kershaw, Director, Education	
Date: 7 February 2022	For: Decision
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County Divisions affected: Stock, Chelmsford	

Confidential Appendix

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

1. Everyone's Essex

- 1.1. Everyone's Essex sets out a strategic aim for making Essex a good place for children and families to grow. Within that aim are commitments to help all children to achieve educational excellence and high standards and to improve outcomes for our most vulnerable and disadvantaged children.
- 1.2. The creation of 56 new childcare places does not create any additional climate impacts and will ensure young children will be able to access their childcare place within their community and not need to travel. It is therefore consistent with the net zero climate commitments set out in Everyone's Essex to achieve zero carbon in the project specification is consistent with ECCs emerging commitment towards commissioning zero carbon buildings as referenced in the climate change commission report presented to ECC.

2. Recommendations

- 2.1. To approve the recommendation made by the Early Years and Childcare Funding Panel on 19 April 2022 to grant a 25 year lease to Safari Childcare for an EYCC Provision at St Luke's Nursery, Runwell, SS11 7XX following completion of construction of the provision.

3. Background and Proposal

- 3.1. Essex County Council ("ECC") has a statutory duty to ensure that there are sufficient childcare places within the local area, as well as a duty to secure delivery of Free Early Education Entitlement for 2, 3 & 4 year olds. Where new

housing developments are agreed that will create the need for new childcare places ECC can apply for a financial contribution from the housing developer towards the cost of local Highways and Education infrastructure under Section 106 of the Town and Country Planning Act 1990.

- 3.2.** The Section 106 funds received to support education infrastructure from this development have enabled a new 56-place nursery to be built within the grounds of the new St Luke's school.
- 3.3.** The creation of new EYCC places in an ECC owned building supports the Council to be able to influence and expand the opportunities to educate children, families and communities by encouraging EYCC providers to embed sustainable practices, policies and early learning experiences as part of their application submission to secure the lease
- 3.4.** The lease to run the new fifty-six place nursery was originally awarded to a local academy chain as part of the Department for Education process to appoint a new school sponsor to run both the new onsite school and the nursery. However, the local academy withdrew from being the provider for the nursery. As the nursery building is already under construction this has meant ECC have needed to advertise to secure a new EYCC provider as soon as practically possible to ensure the building does not remain empty.
- 3.5.** Approval is now sought to enter into a 25-year lease agreement. This lease opportunity has been advertised through the Essex EYCC website and is open to all early years and childcare providers, including childminders. Applications are assessed by the EYCC Funding panel against a set criteria.
- 3.6.** The Essex EYCC Funding Panel consists of ECC Education Officers and a parent rep. The EYCC Funding Panel meets monthly and is chaired by the EYCC Sufficiency and Sustainability Manager.
- 3.7.** The EYCC Funding Panel considers applications made to ECC by EYCC providers to provide early years and childcare places for children aged 0 - 5 from an Essex County Council owned facility within the terms and conditions of an ECC 25 -year lease. The EYCC Funding Panel's Terms of Reference and the application processes are available as background papers, as detailed in section 9.
- 3.8.** The EYCC Funding Panel met on 19 April 2022 and considered the outcome of the moderation process for the lease opportunity at St Luke's Nursery, Runwell and the application documents of the highest scoring applicant for a lease submitted by Safari Childcare. After careful consideration and assessment against the set criteria, the EYCC Funding Panel has recommended that the application proceeds to issue a 25 year lease on an ECC-owned building to Safari Childcare to provide a 56-place day nursery

The Lease

3.9. The 25-year EYCC lease will be subject to upward only rent reviews every 5 years and contains a mutual break clause, also every 5 years, which is subject to not less than six-months' written notice, as well as the Council's ability to terminate the lease if the childcare provider's Ofsted inspection outcomes falls below a Good judgement. The proposed rent is set out in the confidential appendix attached to this report.

3.10. ECC offer stepped rents to support new early years and childcare providers in starting up and getting established to ensure sustainable childcare provider businesses going forward

3.11. The S106 funding that has been received has been utilised in the build and preparation of the new nursery premises located at St Luke's Nursery, St Luke's Way, Runwell, SS11 7XX

3.12. Approval of the lease to create fifty-six new childcare places set out within this report: -

- supports the sustainability and development of the EYCC Sector by offering an affordable rent allowing the creation of new childcare places
- enables parents to work and train by supporting them to access high quality, affordable and accessible childcare options
- supports the delivery of good early years outcomes for children which will enable them to have successful educational journeys and go on to access fulfilling employment opportunities and contribute to the growth of the Essex economy
- supports parents to make ethical and environmentally friendly choices, for example upcycling baby and children's resources and encourage active travel.
- supports providers to educate young children about their health and wellbeing and how best to promote this, setting positive foundations for good health outcomes in later life.

4. Links to our Strategic Ambitions

4.1. This report links to the following aims in the Essex Vision

- Provide an equal foundation for every child
- Strengthen communities through participation
- Connect us to each other and the world
- Share prosperity with everyone

4.2. Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030:

4.2.1. supports the early years sector in educating young children about the world and environment and how they can protect this, promoting the use

of outdoor learning and environmentally friendly resources as part of the requirements of the application to secure the S106 funding

4.2.2. encourages retro fitting of early years settings where possible and deliver net zero buildings for new capital projects

4.2.3. encourage providers, through our Early Years Charter, to adopt environmentally sustainable practices by sharing best practice models

4.2.4. supports parents to make ethical and environmentally friendly choices, for example upcycling baby and children's resources and encourage active travel.

4.3. This report links to the following strategic priorities in 'Everyone's Essex':

- A strong, inclusive and sustainable economy
- A high-quality environment
- Health wellbeing and independence for all ages
- A good place for children and families to grow

5. Options

5.1 Option 1 (**recommended**) – agree the recommendation to enter into a 25-year lease with Safari Childcare to deliver 56-early years and childcare places from the nursery located at St Luke's school, Runwell, Essex. SS11 7XX.

5.1.1 The lease opportunity decisions reached by the EYCC Funding panel are specifically made to support the provision of additional EYCC places to be delivered. Each application was assessed against set criteria to identify a provider who has evidenced that they can provide high -quality, inclusive EYCC places. By securing a 25-year lease with Safari Childcare, ECC meets its statutory duty to deliver sufficient local childcare places in an area with a shortage of childcare places.

5.1.2 ECC will retain the right to monitor the quality of the childcare provision delivered from these premises. Should Safari Childcare fall below an Ofsted rating of 'Good', the provider will be required to work with ECC Early Years Education Partners to improve their service. Failure to engage or continued Requires Improvement or Inadequate Ofsted ratings may lead to the early termination of the lease by ECC. Should this occur, ECC will award the lease to a new provider to enable EYCC places to continue to be delivered from this site.

5.2 Option 2 - Do nothing (**not recommended**)

5.2.1 Not approving the recommendation would mean that ECC may not be able to meet its statutory duty to deliver childcare places.

- 5.2.2 The approved construction of the 56-place facility has commenced, and if this recommendation is not approved, the building will remain empty with ongoing costs to ECC.
- 5.2.3 In addition, if the lease is not approved, local families in this new housing development would be unable to access local childcare and would be required to travel further to secure an early-years place.

6 Issues for consideration

6.1 Financial implications

- 6.1.1 This build is part of a new school and early years provision. The total capital cost of the early year's component of the project is £1,367,000 which is funded entirely by received S106 contributions. There are no borrowing implications associated with the early year's component of the project.
- 6.1.2 There is a statutory duty to provide sufficient childcare provisions in the local areas and therefore without the agreement to this recommendation, Essex County Council will need to ensure the provisions are provided which may be at an additional cost.
- 6.1.3 With reference to 5.2, there is a financial cost to Essex County Council if the lease is not awarded or the tenant gives notice, while the building remains empty. This is for costs such as maintenance, utilities, and securities which will be funded by the Surplus Schools Properties budget.
- 6.1.4 Further details are provided in the Confidential Appendix.

6.2 Legal implications

- 6.2.1 Under Section 6 of the Childcare Act 2006, ECC must ensure that there is sufficient childcare within the local area. Section 6 of the Act defines 'sufficient childcare' as sufficient to meet the requirements of parents in the area who require childcare in order to enable them to take up, or remain in, work or undertake education or training which could reasonably be expected to assist them to obtain work.
- 6.2.2 The Council is obliged to obtain the best consideration reasonably obtainable on the disposal of its own property unless the Secretary of State consents to the disposal or the disposal falls within the terms of the disposal consents issued under the Local Government Act.

6.2.3 Each recipient of a lease with ECC, Early Years and Childcare is required to enter into a lease agreement with ECC to ensure that ECC can take action if the premises are not used for the purpose for which it was intended.

6.2.4 To give effect to the stated options to break in case of not meeting designated Ofsted ratings, appropriate break clauses must be included in the lease.

7 Equality and Diversity Considerations

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

(a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.

(b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

(c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

7.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

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7.5 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

8 List of Appendices

8.1 Equality Impact Assessment

8.2 Capital Lease Confidential Appendix

9 List of Background papers

9.1 EYCC Funding Panel Terms of Reference

9.2 EYCC Capital Application process

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Beverley Egan, Cabinet Member for children's Services and Early Years	04.05.2022

In consultation with:

Role	Date
Cllr. Lesley Wagland (OBE) : Economic Renewal, Infrastructure and Planning	15.05.2022
Executive Director, Corporate Services (S151 Officer)	19.05.2022
Stephanie Mitchener on behalf of] Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	26.04.2022
Susan Moussa on behalf of Paul Turner	