

**LONDON BOROUGH OF BRENT**

**EXECUTIVE MEETING**

**28.05.03**

FROM THE DIRECTOR OF EDUCATION, ARTS & LIBRARIES

NAME OF WARD(S)

ALL

**REPORT TITLE: EVAN DAVIES NURSERY REPLACEMENT**

**1.0 SUMMARY**

This report asks Members to approve the allocation of £250,000 of the EAL capital allocation towards the cost of the replacement of Evan Davies Nursery.

**2.0 RECOMMENDATIONS**

- 2.1 Approve the allocation of £250,000 towards the cost of the new Evan Davies Nursery subject to the Director of Education, on the advice of the Borough Solicitor, entering into a agreement with the Stonebridge Housing Action Trust for a lease of the new nursery.

**3.0 FINANCIAL IMPLICATIONS**

- 3.1 The proposals within this report can be contained within the capital allocation approved for Education, Arts and Libraries. A sum of £250,000 has been provisionally earmarked within the EAL capital programme for this purpose. Because of the deadline for the demolition of the existing nursery, this would fall within the 2003/04 EAL capital programme. The revenue implications will be contained within the budget devolved to the school.
- 3.2 It will be made clear to the HAT that the Council contribution to the scheme is capped at £200,000 (the additional £50,000 will be for the Council use for fittings). Should the tenders come in in excess of the current projections, there will be no assumption that the Council will be expected to make a further contribution.

#### **4.0 STAFFING IMPLICATIONS**

- 4.1 There are no specific staffing implications as a result of the proposals in this report. However, if the Evan Davies nursery replacement does not proceed, there would be significant disruption to both the staff and children at the nursery.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 The Stonebridge Housing Trust (HAT) took ownership of the current site by virtue of the Stonebridge Housing Action Trust (Transfer of Property) Order 1995 after the establishment of the HAT. This deals solely with the transfer of property and does not impose any obligation on the HAT to provide or maintain a nursery.
- 5.2 The Council have been in occupation by virtue of a lease which expired in April. Negotiations are currently in progress for a renewal of that lease. As the lease was contracted out of the protection of the Landlord and Tenant Act 1954, the Council is not automatically entitled to a renewal, nor compensation if the arrangement is terminated. It is assumed the renewal will be on similar terms if demolition is proposed.
- 5.3 The lease does not contain any obligation on the HAT to replace the nursery in the event of its demolition, nor any requirement for a Council contribution towards its replacement.
- 5.4 There does not appear to be a formal agreement between the Council and the HAT regarding the provision of a nursery, its specification or details of any contributions to be paid by the Council. Members will need to be satisfied that officers will enter into appropriate arrangements to ensure Members are complying with their fiduciary duties and there is certainty over the proposals.
- 5.5 The contract for construction will be entered into between the HAT and its builders, so there will be no procurement implications for the Council as it will be taking a lease of a building. There will need to be an agreement for lease and lease to ensure the Council has control over the expenditure of the £250,000 and the building meets its requirements. Collateral warranties will need to be taken from the builder by the Council to ensure any defects are dealt with.
- 5.6 The payment of £250,000 will need to be made at the beginning of the contractual arrangements to avoid it becoming a credit arrangement requiring credit cover.

## 6.0 DETAIL

- 6.1 Members have agreed a 2003/04 capital allocation for EAL of £800,000. The Executive at its meeting on 28<sup>th</sup> April agreed to the allocation of £550,000 to various school projects and to provisionally earmark the remaining £250,000 for the Evan Davies Nursery replacement scheme pending a further report once more information had been obtained in relation to the proposals.
- 6.2 The current building occupied by the Evan Davies Nursery School is owned by the Stonebridge HAT. The HAT wishes to demolish the nursery on its current site and is proposing to build a replacement nursery on another site. The HAT will undertake the replacement, will manage the contract for the new building and will then lease the nursery building to the Council at a peppercorn rent. The new nursery will offer an additional 5 places for nursery aged children with autistic spectrum disorder. These will be full-time places enhancing both place numbers available, which will rise from 5 to 10, and increasing current provision from part-time to full-time.

It is planned, subject to approval from the New Opportunities Fund, that the new nursery will have additional facilities for 41 children under 3 as part of the Neighbourhood Nursery Initiative, increasing provision available in the local area. The Early Years Development and Childcare Partnership has endorsed Evan Davies' application. The additional provision will enable parents to return to work or to take up training opportunities supporting the regeneration priorities for Stonebridge.

It is anticipated that further investment can be made in the future through the government funded Children's Centre Initiative. This will bring together health care, family support and education facilities in a way that can be easily accessed by the community. The design of the nursery therefore needs to take into account the potential to expand and meet the requirements of Children's Centres. The HAT has invited tenders for the new building that have come in at £200,000 above the resources available to the HAT. The HAT are therefore seeking a contribution at this level from the Council. In addition, the Council will need to fund the cost of fixtures and fittings for the new building. The financial position is set out below.

	£k
<b>Costs</b>	
Construction costs (Including fees)	1,475
Fixtures and Fittings	50
<b>Total</b>	<b>1,525</b>
<b>Funding Sources</b>	
Contribution from Stonebridge HAT	1,000
Neighbourhood Nursery Initiative	205
Standards Fund – Nursery Expansion	70
<b>Total</b>	<b>1,275</b>
<b>Shortfall</b>	<b>250</b>

- 6.3 The Council has no option but to seek a replacement for the existing nursery and the HAT must demolish the current building by March 2004. There is therefore a very tight time scale for the new building to be erected and made ready. The HAT is awaiting confirmation of the Council's commitment to its contribution of £200,000 towards the building works in order to proceed.
- 6.4 The HAT wish to demolish the existing nursery and replace it with housing. The need to build the houses on the site is driven by the HAT's development Plan and the demolition date cannot be put back. The nursery replacement is therefore constrained by this timetable.
- 6.5 Heads of Terms will need to be drawn up with the HAT. The proposal will be for a lease of 25 years at a rent of £100 per annum. The Heads of Terms would specify that the £200,000 represents the Council's sole contribution to the building works, even if the project cost overran. It is not envisaged that there would be any changes to the specification once the Heads of Terms have been finalised.
- 6.6 The costs set out in paragraph 6.2 above are net of VAT. In order to recover VAT, the HAT will need to 'opt to tax' the land and replacement building by applying to, and obtaining approval from, Customs and Excise. If the HAT exercises its 'option to tax' the transaction, it will recover VAT on the building costs. The HAT will also charge VAT on the rent of £100 and the Council's capital contribution of £250,000. The Council will recover the VAT to be charged because its use of the building is to provide non-business education by its LEA for the nursery children. The VAT charged by the HAT will be directly attributable to a taxable supply and so will not affect the HAT's partial exemption apportionment.
- 6.7 Although the HAT could probably replace the Evan Davies nursery with a similar building within the resources available to it, such a replacement would not meet the needs of the local community, nor would it meet the modern requirements for under fives provision as expected by central government as set out in paragraph 6.2 above. Brent's contribution of £250,000 will therefore enable these requirements to be met.
- 6.8 There are no nurseries managed by Social Services in the Evan Davies catchment area. Some preliminary discussions have taken place between Education, Arts and Libraries and Social Services to review current provision and future options across the borough. However, no plans are currently in hand and, since no Social Services nurseries are within the area, amalgamation is not an option.
- 6.9 Members have agreed that Stonebridge School should reduce to one form of entry. This will effectively mean that one floor of the current building will become surplus to the school's requirements. In terms of the space available, it is possible that the new nursery could be built within the current school, however this would not be practical. Stonebridge School is a three storey Victorian building not suitable for nursery provision aged 0 to 5.
- 6.10 The procurement process will be managed by the HAT, who will project manage the operation.

## **7.0 BACKGROUND INFORMATION**

The following papers were used in the compilation of this report:-

- i) Letters of 14<sup>th</sup> February 2003 and 12<sup>th</sup> March 2003 from the HAT

Any person wishing to inspect the above papers should contact  
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