

## ITEM No ...4.....

**REPORT TO:** CHILDREN AND FAMILIES SERVICES COMMITTEE – 31 OCTOBER 2022

**REPORT ON:** CONSULTATION ON CLOSURE OF LAW NURSERY

**REPORT BY:** EXECUTIVE DIRECTOR OF CHILDREN AND FAMILIES SERVICE

**REPORT NO:** 277-2022

### **1.0 PURPOSE OF REPORT**

1.1 The purpose of this report is to seek Children and Families Services Committee approval for the Executive Director of Children and Families Services to formally consult on the undernoted proposal under the terms of the Schools (Consultation) (Scotland) Act 2010.

### **2.0 RECOMMENDATIONS**

2.1 It is recommended that the Committee instructs the Executive Director of Children and Families Service to:

- i) formally consult on the proposal for the permanent closure of Law Nursery from July 2023;
- ii) report the outcomes and recommendations resulting from the statutory consultation in due course.

### **3.0 FINANCIAL IMPLICATIONS**

3.1 If the proposal is approved this will result in annual revenue savings amounting to approximately £37,300 in a full financial year and a part year saving of £23,300 in financial year 2023/24. Further detail is provided in Appendix 1 of the consultation document attached (Appendix A).

3.2 These revenue savings will arise in Children and Families services budget amounting to £17,400 and £19,900 in City Developments revenue budget.

3.3 There will be additional one-off revenue costs associated with disposing of the property amounting to approximately £35,000.

### **4.0 BACKGROUND**

4.1 In the spring of 2022, the Council was made aware that the Diocese of Dunkeld was selling the land which is currently leased by the council and occupied by Law Nursery. Notice has been served upon Dundee City Council regarding their existing lease of the site. The implications of this required a review of Law Nursery.

4.2 Key to the Council's considerations, was its ability to meet its statutory duty of educational provision in the affected establishment. An appraisal was undertaken in respect to the options available to the council.

4.3 The first option is to close Law Nursery which is currently registered to provide care to a maximum of 70 children aged three years and over at any one time. This option could be considered if sufficient capacity is available to provide 1140 hours of early learning and childcare in line with Scottish Government requirements. Having undertaken a review of capacity across the early years provision within the city, it was confirmed that capacity remains to meet current and projected future demand from families.

- 4.4 The second option is to relocate the nursery. In order to do this and meet the need of families who currently access it now or in the future, a suitable building and/or location would be required within the existing locality.
- 4.5 Having undertaken a review of available sites within the area, no suitable locations were available which could provide appropriate indoor and outdoor early learning provision.
- 4.6 In considering all of the options for the future of Law Nursery, including its potential closure, the service has engaged with families to consider alternative early years provision. For those returning pre-school children, there is no immediate impact and children were advised they could remain in Law Nursery until June 2023. It was acknowledged however that families may wish to consider an alternative nursery for academic year 2022/23 including those children who can automatically defer entry to school as of Aug 2023. Families were consulted individually. 22 children chose to remain in Law Nursery until June 2023.
- 4.7 Law Nursery received grades of very good in all quality indicators during their last inspection by the Care Inspectorate. If it closes, the resultant transfer of staff into other nurseries within the city spreads this exemplary practice, skills and experience and also augments existing positive experiences for children across the city.
- 4.8 During session 2022-23 the current pre-school intake will continue to benefit from the skills and experiences afforded to them within Law Nursery.
- 4.9 Law nursery cannot remain on its existing site and an appropriate solution needs to be agreed prior to July 2023.

## **5.0 FORMAL CONSULTATION PROCESS AND THE PUBLICATION OF THE FORMAL PROPOSAL PAPERS**

### **5.1 The consultation proposal is attached as Appendix A.**

- 5.2 If approved, the consultation on a proposal to close Law Nursery will begin on Monday 7 November 2022 and formal proposal papers will be:
- published in both electronic and printed form,
  - available for inspection at all reasonable times and without charge
  - at its head office and on its website,
  - at the affected nursery or at a public library or some other suitable place within the vicinity of the nursery.
- 5.3 The consultation process will end on Tuesday 20 December 2022, (30 school days)
- 5.4 Formal consultation will include:
- preparation and publication of a proposal paper on the Council's website,
  - giving notice of the proposal to parents/carers and other statutory consultees,
  - an announcement of the proposal in the local press, inviting any person to make written representation to the Executive Director of Children and Families Services,
  - public consultation in the local area,
  - consultation with staff,
  - consultation with parents of the children at the affected nursery,
  - consultation with the parents of any children expected by the education authority to attend any affected nursery within two years of the date of publication of the proposal paper,
  - consultation with representatives of the teacher and support staff trade unions,
  - meetings with other interested bodies such as the Local Community Planning Partnership,
  - consultation with any other education authority that the education authority considers relevant.

- 5.5 At the end of the consultation period, the Executive Director of Children and Families Service will draft a report incorporating copies of written representations and a summary of oral representations from key stakeholders. The report and related documents will then go to Education Scotland for consideration and comment. A maximum of three weeks will be set aside for this part of the process.
- 5.6 On receipt of the Education Scotland feedback report, the Executive Director of Children and Families Service, on behalf of the local authority, will prepare and publish a consultation report containing the views of Education Scotland and including an explanation of how the Council proposes to deal with any issues raised. After a period of no less than three weeks, the Children and Families Services Committee will consider the consultation report and decide whether or not to approve the proposal.
- 5.7 It is anticipated that the Children and Families Services Committee will decide to approve or reject the final proposal at its meeting in April 2023.
- 5.8 In the case of a closure, Scottish Government Ministers have the power to call in decisions. Ministers have up to 8 weeks to decide whether or not to issue a call in notice. Where the Council approves a closure of a nursery after consultation, this decision will be clearly reported on the council website and, where possible, to all those who have sent in responses to the consultation. Information will also be provided on how consultees can make further representations to Scottish Government Ministers.

## **6.0 POLICY IMPLICATIONS**

- 6.1 This report has been subject to the screening tool and does not make any recommendations for change to strategy, policy, procedures, services or funding and so has not been subject to an Integrated Impact Assessment. An appropriate senior manager has reviewed and agreed with this assessment.

## **7.0 CONSULTATION**

- 7.1 The Council Leadership Team, Children and Families Service Leadership Team, Head Teacher and Tayside Contracts have been consulted in the preparation of this report.

## **8.0 BACKGROUND PAPERS**

- 8.1 None.

Audrey May  
Executive Director of Children and Families Service  
October 2022

Gordon Laidlaw  
Education Officer

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**DUNDEE CITY COUNCIL**

**Children and Families Service**



**DRAFT Proposal Paper**

**Closure of Law Nursery from July 2023**

**This document has been issued by Dundee City Council for consultation in terms of the Schools (Consultation) (Scotland) Act 2010 as amended.**

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## PROPOSAL

Closure of Law Nursery from July 2023

It is proposed that all eligible nursery aged children will access alternative nursery provision from August 2023

### 1.0 BACKGROUND

- 1.1 In the spring of 2022, the Council was made aware that the Diocese of Dunkeld was selling the land which is currently leased by the council and occupied by Law Nursery. Notice has been served upon Dundee City Council regarding their existing lease of the site. The implications of this required a review of Law Nursery.
- 1.1.1 Education Authorities have a statutory duty in terms of the Education (Scotland) Act 1980 to make adequate and efficient provision of school education which includes early learning and child care across their area. This duty applies in respect of both the current nursery population and anticipated pattern of demand.
- 1.1.2 Councils have a statutory duty to secure best value in terms of the Local Government in Scotland Act 2003. Most importantly, the Education Authority would wish to optimise the early years early learning and childcare experience for every child by providing provision that offers:
- High quality
  - Flexibility
  - Accessibility

To achieve best value and optimum efficiency, the organisation of the service estate is therefore kept under regular review, including the need for nursery provision and other factors.

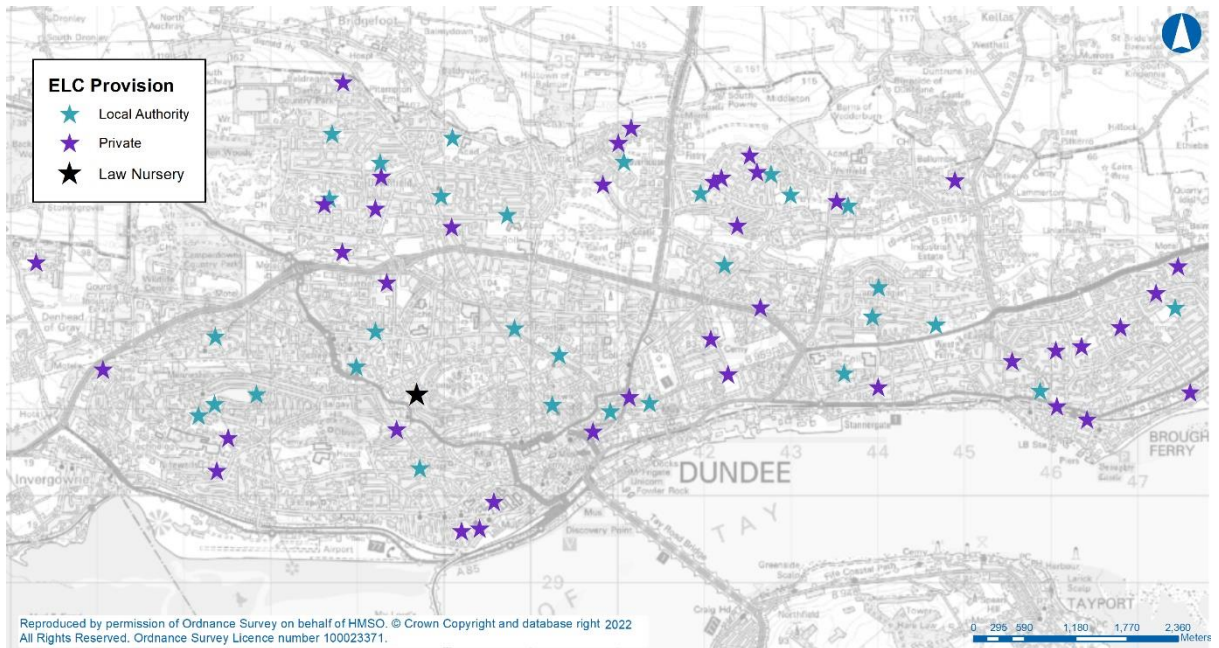
- 1.1.3 At the meeting of the Children and Families Service Committee on 31 October 2022 (report no. [277-2022](#) refers), elected members instructed the Executive Director of Children and Families Services to formally consult on the closure of Law Nursery.

### 1.2 Current position

- 1.2.1 Dundee City Council have been served notice by the Diocese of Dunkeld on their current lease of the site on which Law nursery is located.
- 1.2.2 A review of nursery provision was undertaken and it confirmed suitable capacity exists to accommodate current and projected future demand for nursery places without the 70 places provided by Law Nursery.
- 1.2.3 In considering all of the options for the future of Law Nursery, including its potential closure, the service has engaged with families to consider current and alternative early years provision. This operational decision was necessary to avoid any additional transition or impact upon children, parents and staff should Law Nursery close.
- 1.2.4 Law Nursery Roll for the last 5 years has been:

Session	Post-Easter roll
2017/18	62
2018/19	73
2019/20	73
2020/21	66

Map of Early Learning and Childcare provision including nursey provision across Dundee



### 1.3 IMPACT OF THE PROPOSAL ON LAW NURSERY

- 1.3.1 As no catchment areas exist in the same way as primary schools, families will have the choice to apply to any nursery provision across the city and not just within their local area. This flexibility enables families to make choices based on other factors such as their family network or work location and situation.
- 1.3.2 For information, the table below shows Local Authority and Funded Provider provision currently within 2km walking distance of Law Nursery.

Provision	Eligible age group	Delivery model	Walking distance from Law Nursery (km)
Home Sweet Home Childminder (Funded Provider)	2-5	Term time/full year	0.95
Woodlea Children's Centre	2-5	Term time	1.0
St Mary's RC Primary School	3-5	Term time	1.1
Balgay Hill Nursery	3-5	Term Time	1.3
Coldside Nursery	2-5	Term time /full year	1.7
Frances Wright Nursery	3-5	Term time	1.8
Aberfoyle TOO (Funded Provider)	2-5	Full year	1.9
Dens Road Primary School	2-5	Term time	1.9



#### **1.4 EDUCATIONAL BENEFITS OF A CLOSURE**

- 1.4.1 As a result of the recent expansion of children's entitlement to 1140 hours of funded early learning and childcare, the overall capacity and range of delivery models for children aged 3-5 years and eligible 2 year olds has increased across the city and within the local area.
- 1.4.2 Currently Law Nursery provides a service for children aged 3- 5, term time only. Within the local area however there are a range of flexible models available for children aged 2-5 including term time and extended day, extended year. Families can opt to have eligible siblings attend the same setting where provision is offered for 2-5yrs.
- 1.4.3 Alternative nursery provision will continue to deliver high quality early learning and childcare for children aged 2-5 in stimulating indoor and outdoor environments.

#### **1.5 LIKELY EFFECTS ON OTHER USERS OF THE NURSERY FACILITIES**

- 1.5.1 Out with Nursery hours the Law Nursery accommodation is not used for community or wider service delivery. There will be no detrimental impact as the building is not Let to other organisations or groups.

#### **1.6 LIKELY EFFECTS ON CHILDREN IN OTHER DUNDEE NURSERIES**

- 1.6.1 Families will continue to have the choice to apply to the Nursery / Funded Provider of their choice. Families are asked to identify their first, second and third choice of nursery at the point of application.
- 1.6.2 On the occasion when these choices cannot be accommodated, the Central team work with families on an individual basis to secure a funded place within the City. The number of children attending nursery settings across the city is continually reviewed, thus allowing where appropriate, redirection of staffing resources across Local Authority provision.

#### **1.7 HOW THE COUNCIL INTENDS TO MINIMISE OR AVOID POTENTIAL ADVERSE EFFECTS**

##### **TRANSFERRING PRIMARY PUPILS**

- 1.7.1 10 of the 22 children currently attending Law Nursery will transition to primary education in August 2023. 12 of the 22 children will have the option to defer entry to school as of Aug 23. Should they wish to defer, the Central team will work with families on an individual basis to secure an alternative nursery place within the City. Currently there is no ante pre-school intake therefore there will be no children on the nursery roll as of June 2023.

#### **1.8 LIKELY EFFECT ON THE LOCAL COMMUNITY**

- 1.8.1 As the nursery building does not currently facilitate Lets and therefore it is not used outside of the 1140 commitment, there is no anticipated impact upon the community.
- 1.8.2 If the nursery is closed, the flow of traffic at key points in the day will reduce as families will no longer undertake drop off/pick up of their children. This will positively impact upon the availability of parking within the area and reduce the number of vehicles in the area.

#### **1.9 BENEFITS RESULTING FROM IMPLEMENTATION OF THIS PROPOSAL**

The benefits highlighted in the preceding paragraphs can be summarised as follows:

- 1.9.1 No children will be disadvantaged as there are a range of alternative and flexible delivery models and sufficient capacity across the City.

- 1.9.2 All staff will remain employed within Local Authority Nurseries. The resultant transfer of staff into other Local Authority nurseries within the city spreads their exemplary practice, skills and experience and also augments existing positive experiences for children across the city.
- 1.9.3 Dundee City Council will make financial savings at a time when the need for these is acute.
- 1.9.4 The realisation of financial savings will facilitate the redirection of resources to support children across Dundee.
- 1.9.5 In delivering these broad benefits, the authority is confident that it is discharging its duty to secure best value through continuous improvement in the performance of its functions, as required by the Local Government in Scotland Act 2003.

## **1.10 FINANCIAL IMPLICATIONS**

- 1.10.1 If the proposal is accepted, the revenue savings which will be generated will amount to approximately £23,300 in financial year 2023-24 rising to ongoing savings of approximately £37,300 by 2024-25.
- 1.10.2 There will be additional one-off revenue costs associated with disposing of the property amounting to approximately £35,000.

A financial template with full details is included as Appendix 1.

## **1.11 FORMAL CONSULTATION PROCESS AND THE PUBLICATION OF THE FORMAL PROPOSAL PAPERS**

- 1.11.1 If approved, the consultation on a proposal to close Law Nursery will begin on Monday 7 November 2022 and formal proposal papers will be:
- published in both electronic and printed form,
  - available for inspection at all reasonable times and without charge
  - at its head office and on its website,
  - at any affected nursery or at a public library or some other suitable place within the vicinity of the nursery.
- 1.11.2 The consultation process will end on Tuesday 20 December 2022.
- 1.11.3 Formal consultation will include:
- preparation and publication of a proposal paper on the Council's website,
  - giving notice of the proposal to parents/carers and other statutory consultees,
  - an announcement of the proposal in the local press, inviting any person to make written representation to the Executive Director of Children and Families Services,
  - public consultation in the local area,
  - consultation with staff,
  - consultation with parents of the children at the affected nursery,
  - consultation with the parents of any children expected by the education authority to attend any affected nursery within two years of the date of publication of the proposal paper,
  - consultation with representatives of the teacher and support staff trade unions,
  - meetings with other interested bodies such as the Local Community Planning Partnership,
  - consultation with any other education authority that the education authority considers relevant.

- 1.11.4 At the end of the consultation period, the Executive Director of Children and Families Service will draft a report incorporating copies of written representations and a summary of oral representations from key stakeholders. The report and related documents will then go to Education Scotland for consideration and comment. A maximum of three weeks will be set aside for this part of the process.
- 1.11.5 Education Scotland will prepare a report on the educational aspects of the proposal not later than 3 weeks after the Authority has sent them all representations and documents mentioned above. For the avoidance of doubt, the 3-week period will not start until after the consultation period has ended. In preparing their report, Education Scotland may enter the affected nursery and make such reasonable enquiries of such people there as they consider appropriate and may make such reasonable enquiries of such other people as they consider appropriate.
- 1.11.6 On receipt of the Education Scotland feedback report, the Executive Director of Children and Families Service, on behalf of the local authority, will prepare and publish a consultation report containing the views of Education Scotland and including an explanation of how the Council proposes to deal with any issues raised. After a period of no less than three weeks, the Children and Families Services Committee will consider the consultation report and decide whether or not to approve the proposal.
- 1.11.7 It is anticipated that the Children and Families Services Committee will decide to approve or reject the final proposal at its meeting in April 2023.
- 1.11.8 In the case of a closure, Scottish Government Ministers have the power to call in decisions. Ministers have up to 8 weeks to decide whether or not to issue a call in notice. Where the Council approves a closure of a nursery after consultation, this decision will be clearly reported on the council website and, where possible, to all those who have sent in responses to the consultation. Information will also be provided on how consultees can make further representations to Scottish Government Ministers.

## **PUBLIC MEETING**

- 1.11.9 A public meeting will be held to discuss these proposals. Anyone wishing to attend the public meeting is invited to do so. The meeting, which will be convened by the Education Authority, will be addressed by the Executive Director of Children and Families Services or other senior officers of the Council.

The meeting will be an opportunity for interested parties to:

- Hear more about the proposal
- Ask questions about the proposal
- Have their views recorded so that they can be considered as part of the consultation process.

Formal Public Consultation Meeting is arranged as follows:

<b>Date</b>	<b>Venue</b>	<b>Presentation and Question and answer session</b>
24 November 2022	Law Nursery	6.00pm

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## APPENDIX 1

### Financial Template for Proposed Closure of Law Nursery

Table 1

<b>Current revenue costs for Nursery proposed for closure</b>			
	<b>Costs for full financial year 2021/22</b>	<b>Additional financial impact on receiving nursery schools</b>	<b>Annual recurring savings</b>
<b>School costs</b>			
<i>Employee costs</i>	£483,100	£483,100	
teaching staff	£123,200	£123,200	
support staff	£359,900	£359,900	
<i>Building costs:</i>	£47,700	£10,600	£37,100
non domestic rates			
water & sewerage charges	£800		£800
energy costs	£8,500		£8,500
cleaning	£8,700		£8,700
building repair & maintenance / Health and safety contracts	£10,300		£10,300
facilities management costs	£10,600	£10,600	
other – rent	£8,800		£8,800
<i>School operational costs:</i>	£36,200	£36,000	£200
learning materials	£10,200	£10,200	
catering (contract or inhouse)	£22,000	£22,000	
other school operational costs (e.g. licences)	£4,000	£3,800	£200
<i>Transport costs:</i>			
home to school			
staff travel			
<b>SCHOOL COSTS SUB-TOTAL</b>	<b>£567,000</b>	<b>£529,700</b>	<b>£37,300</b>
<i>Income:</i>			
Sale of meals			
Other	(£7,000)	(£7,000)	
<b>SCHOOL INCOME SUB-TOTAL</b>	<b>(£7,000)</b>	<b>(£7,000)</b>	
<b>TOTAL COSTS MINUS INCOME FOR SCHOOL</b>	<b>£560,000</b>	<b>£522,700</b>	<b>£37,300</b>

<b>Table 2</b>		
<b>Capital costs</b>	<b>School proposed for closure</b>	<b>Receiving school</b>
Demolition costs		
Capital Life Cycle Costs		

**Table 3**

<b>Annual Property costs incurred (moth-balling) until disposal</b>	
property insurance	
non domestic rates	
water & sewerage charges	
energy costs	
security costs	£5,000
<b>TOTAL ANNUAL COST UNTIL DISPOSAL</b>	<b>£5,000</b>

**Table 4**

<b>Non-recurring revenue costs</b>	
Removal and decommissioning costs (disposal of property)	£35,000
<b>TOTAL NON-RECURRING REVENUE COSTS</b>	<b>£35,000</b>

**Table 5**

<b>Impact on GAE</b>	
<b>GAE IMPACT</b>	