

<b>15 September 2015</b>		<b>ITEM: 6</b>
<b>Children's Services Overview and Scrutiny Committee</b>		
<b>Nursery Provision in East Tilbury</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> All	
<b>Report of:</b> <b>Roger Edwardson – Strategic Leader School Improvement, Learning and Skills</b>		
<b>Accountable Head of Service:</b> Roger Edwardson, Interim Strategic Leader School Improvement, Learning and Skills		
<b>Accountable Director:</b> Carmel Littleton, Director of Children's Services		
<b>This report is public</b>		

## **Executive Summary**

Overview and Scrutiny Committee are asked to consider the childcare provision in East Tilbury. Currently there is sufficient provision in the area, also taking account of the planned housing development. Unfortunately, there has been a breakdown in arrangements between East Tilbury Primary School (part of St. Clere's Academy Trust) and the Directors of Little Angel's Day Care who share the school site.

In addition, a new provider has opened in Linford offering day care to families in the area.

Following the transfer of the landlord responsibilities to the Academy Trust, the local authority will continue to work to rebuild relationships recognising the responsibility for the land no longer lies with the local authority.

### **1. Recommendation(s)**

**1.1 Children's Overview and Scrutiny Committee is requested to comment upon the actions taken to date and any further actions which should be taken by the Council to resolve the current situation.**

### **2. Introduction and Background**

As part of the legal requirement to determine whether there is sufficient childcare provision across the borough the Council must regularly monitor childcare provision and takes into account planned housing developments in

the area. The Council continues to be keen to consult with parents and providers to ensure provision will meet current and future needs.

In East Tilbury we have two providers who have shared the East Tilbury Primary School site for the last 7 years. However, since gaining academy status there has arisen a number of differences between Little Angel Day Nursery (“LADN”) and East Tilbury Primary School (“ETPS”) which now forms part of the St. Clere’s Co-operative Academy Trust (“St. Clere’s”).

In 2008, the Council agreed to let, by way of a 75 year lease, to the Directors of Little Angels Day Nursery (LADN) an area of land within the boundary of the ETPS site. LADN constructed, at their own expense, a new single storey modular building on the site. The lease contains a covenant, by the Landlord at clause 4(3) *“Not to use the adjoining property for the provision of nursery care and wraparound care for children between the ages of 0 and 11 years and further the Landlord will be permitted to retain any nursery class or classes it has in the Adjoining Property providing facilities for children is from the age of 4 years upwards.”*

The Council was made aware that a dispute had arisen between St. Clere’s and LADN under the guise of a previous agreement which allowed the school to operate a nursery on the site. Historically, the two respective organisations had a very cordial relationship whereby children transferred to the school in the summer term prior to entry into the reception class. The above dispute has clearly strained the relationship and the council were approached by both parties to provide support to the respective organisations with a view to resolving the dispute.

Following conversion of both the infant and junior schools, initially to “Foundation Status” and subsequently to Academy Status in 2012, the council no longer had a legal interest in the land which is the subject matter of the dispute. It was agreed however to facilitate a dialogue, and in this regard an external consultant was engaged with a view to finding a satisfactory solution for both parties.

It proved impossible to reconcile the situation despite the best endeavours of all involved. Despite the Council’s efforts to resolve the dispute, unfortunately the situation subsequently deteriorated further with the threat of an injunction being issued by LADN to St. Clere’s alleging that they are in breach of the above mentioned covenant and they will be stopped from running nursery provision and after school activities at their site.

In light of this action, St. Clere’s Trust informed parents at the end of the summer term 2015 that the school’s nursery provision will be closed and there will be no nursery intake at the school from September 2015. LADN will

continue to provide full day care and sessional provision for East Tilbury families as usual.

East Tilbury Primary School (ETPS) have also informed parents that they have ceased to offer extra-curricular activities including sports clubs. Clearly this decision is a matter for the school. However, from a Local Authority perspective extra-curricular activities cannot be considered as a part of wraparound care.

The Council is continuing to work to offer choice for child care provision in the East Tilbury Ward. To this end, new provision has been developed by Sparkling Angels Child Care Ltd. using Linford Village Hall for sessional provision from September 2015. Sparkling Angels already make sessional provision for child care in Chadwell St. Mary's and Stanford Le Hope. In addition, they also operate a day nursery, also in Stanford Le Hope.

### **Sufficiency of Early Years places**

There are a total of 72 x 3 hourly sessions at Little Angels Day Nursery from 3pm to 6pm. Some families have decided not to take these sessions. LADN also accepts children from outside the East Tilbury ward which puts pressure on the availability of places for local children.

The opening of Sparkling Angels Pre-school at Linford, which does include provision for outdoor play, has also increased childcare places by 40 x 15 hour places. At the last conversation with the provider on 27<sup>th</sup> July 2015, she indicated that the current take up of places for September 2015 is nine children. The pre-school, therefore, has capacity for further children. Ofsted confirmed, having visited the pre-school premises, that the new setting is suitable for early year's provision.

## **3. Issues, Options and Analysis of Options**

- 3.1 LA officers held a meeting with the ETPS parents at their request at the end of the summer term 2015, in order to assist them appreciate decisions which were taken based upon the circumstances and the facts at that time, in 2008, it would appear the Council agreed to the restrictive clause in the lease to ensure the viability of the childcare provider.

The private provider had put significant capital investment into the construction of the nursery and children's centre building. In turn, the provider wanted to ensure that the Council were unable to set up a similar institution in the adjoining land. It has to be acknowledged that this restriction only applied to the adjoining land upon which the Council then had a Maintained School. Such a risk was manageable by the Council as it owned the land. The school's nursery co-existed with the private provider for a number of years. However the circumstances partly changed with the process of the maintained school becoming a Foundation and then an Academy under the Academy Act 2010. In these circumstances the Council ceased to be the owner of the land.

Notwithstanding the fact that the Council is no longer the owner of the land, the Council is keen to restore the semblances of that original arrangement that existed between the parties and will continue to try to use its influence to bring this about.

#### **4. Future Demand**

The national increase to 30 hours childcare is due to commence in 2017 for working parents only. This increase will provide opportunities for any early education providers in the Local Authority. The Local Authority is committed to working with local providers and others to secure this capacity. In the East Tilbury ward there is capacity for a further 150 placements which is judged as sufficient for any future developments. This is kept under review through the Childcare Sufficiency Duty.

#### **5. Reasons for Recommendation**

- 5.1 The Overview and Scrutiny Committee is requested to comment on the contents of the report and to suggest an approach that might help resolve the position.

#### **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 This report relates to creating a great place for learning and opportunity
- 6.2 Encourage and promote job creation and economic prosperity.

#### **7. Implications**

##### **7.1 Financial**

Implications verified by: **Jonathan Wilson**  
**Chief Accountant**  
[JWilson2@thurrock.gov.uk](mailto:JWilson2@thurrock.gov.uk)

The land has been owned by St. Clere's since 2012 when it became an Academy. St. Clere's sub-lets the land to Little Angels Day Nursery who pays them the annual rent. The Council has no interest in the land and buildings of the St. Clere's Academy Trust and hence there are no financial implications relating to this site. The report relates to the facilitation of dispute resolution between two parties and hence there are no further financial implications for the Council.

## 7.2 Legal

Implications verified by: **Lucinda Bell**  
[Lucinda.Bell@bdtlegal.org.uk](mailto:Lucinda.Bell@bdtlegal.org.uk)

None – for discussion and noting only.  
Legal Services (Helen Graydon) has provided information and support to the new landlord with regard to the issue of a rent review following transfer of landlord responsibilities to St. Clere's Academy Trust.

## 7.3 Diversity and Equality

Implications verified by: **Natalie Warren**  
**Community Development and Equalities  
Manager**  
[NWarren@thurrock.gov.uk](mailto:NWarren@thurrock.gov.uk)

This report is for comment and noting only. There are no diversity and equality implications.

## 7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None.

## 8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- None.

## 9. Appendices to the report

- None.

### Report Author:

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