

Wiltshire Council

Cabinet

12 June 2018

Subject: Outdoor Education Update

Cabinet member: Councillor Phillip Whitehead - Cabinet Member for Finance, Procurement, ICT and Operational Assets

Key Decision: Yes

Executive Summary

- The Council's role in the education sector is changing and as part of transforming our services and relationships with schools a review has been completed of the Council's outdoor education Centres, Braeside, Devizes and Oxenwood, Marlborough.
- The Cabinet at its meeting on the 27 March 2018 considered the review and agreed to close both sites on the 31 August 2018.
- Since the March Cabinet report the Council has been contacted by many organisations and partners expressing an interest to continue the operation of the centres as an outdoor education facility. The organisations were asked to provide summary information on their proposals to an extended deadline of 21 May 2018.
- It should be noted that, this was not a formal tender or sale process at this stage, merely an opportunity for interested parties to present an initial proposition on intended activities at the centres, headline commercial arrangements, approach to TUPE and maintenance of the sites.
- This development gives the Cabinet an opportunity to consider the options and next steps for outdoor education in Wiltshire.

Proposals

- i. To commence a market testing process to consider options for the future operation of the outdoor education sites;
- ii. To delegate to the Director for Children's Services, in consultation with the Cabinet Member for Children's Services and Finance, the delivery of the market testing process;
- iii. To extend the operation of both Braeside and Oxenwood outdoor education sites until 31 December 2018.

- iv. To extend the period of consultation with outdoor education staff in line with the Councils HR Policies.

Reason for Proposal

- 1) Following the Council's review of the two outdoor education sites, Braeside and Oxenwood and the Cabinet's decision to close both sites, interested parties have come forward with a variety of proposals for the continuation of outdoor education in Wiltshire.
- 2) This report considers these expressions of interest and how best to progress the review of outdoor education. This provides new information for Cabinet to consider.

Terence Herbert – Corporate Director, Children and Education
Alistair Cunningham – Corporate Director, Growth, Investment and Place

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Key Decision: Yes

1. Purpose of Report

- 1.1 To consider the next steps for outdoor education centres following the receipt of expressions of interest in the sites operation.

2. Proposals

- i. To commence a market testing process to consider options for the future operation of the outdoor education sites at Braeside and Oxenwood;
- ii. To delegate to the Director for Children's Services, in consultation with the Cabinet Members for Children's Services and Finance, the delivery of the market testing process;
- iii. To extend the operation of both Braeside and Oxenwood outdoor education sites until 31 December 2018.
- iv. To extend the period of consultation with outdoor education staff in line with the Councils HR Policies.

3. Relevance to the Council's Business Plan

- 3.1 The proposals are relevant to the Council's priorities and objectives as laid down in the Business Plan; specifically, the proposal supports the following outcomes:
 - a. Strong communities and particularly the ambition of communities where everyone can achieve their part.
 - b. Protecting the vulnerable and schools that help all pupils achieve.

4. Background

- 4.1 Wiltshire Council currently operates outdoor education centres at Braeside, Devizes and Oxenwood near Marlborough. Both sites offer a range of outdoor education activities, residential courses and some off-site sessions.
- 4.2 Outdoor education is a discretionary function for the Council and given ongoing revenue losses and the high capital maintenance costs of the sites a review of the Council's outdoor education provision was commenced and considered by Cabinet at its meeting on the 27 March 2018. The Cabinet decision was to close both centres by the 31 August 2018 and a consultation period on the proposals with staff has commenced.
- 4.3 Following this decision, a range of interested parties have contacted the Council with a variety of options and proposals for the continued operation of the outdoor education sites. A high-level summary of these proposals is below.

Organisation	Summary of proposal
Charitable service provider.	Continued operation for Oxenwood as an outdoor education centre, not for profit basis, with a focus on young people from low income families, carers, Special Education Needs, looked after children, young offenders, those Not in Education Employment or Training (NEETS), etc. Charitable grants accessed to improve facilities.
Private sector provider.	Continued operation of Braeside as an outdoor education site with existing staff and current programme with a community focus.
Private sector provider	Braeside maintained as outdoor education site, improvements made to attractiveness to people with disabilities. New on-site activities developed including 'living history, widening the programme at the site to include National Citizen service, private bookings and events.
Charitable service provider.	Create a new charity for Braeside site offering education work with schools and following the current operating model. Conference activities and out of hours activities added.

Please note: All potential operators who have expressed an interest at this stage want to take on open, operational and viable concerns.

- 4.4 The decision to close the outdoor education sites and the subsequent expressions of interest have shown there is interest from the private and charity sectors in the venues an outdoor education going concern.
- 4.5 To date the options presented by interested parties for the sites has been via an informal process but given the value of the business if Cabinet decision is to explore these options further it will require a formal process. In doing this Cabinet will need to be cognisant that this is not just a sale of a building but potentially a transfer of a service and outdoor education business, including a potential TUPE transfer of staff.
- 4.6 Consequently, an open and transparent market testing process will need to be followed that makes the business opportunity clearly available to all and allows for fair consideration of proposals.
- 4.7 Given the above it is unlikely a market testing process will be concluded by 31 August 2018, the planned closure date and a Cabinet decision will be required to extend the operation of Braeside and Oxenwood to 31 December 2018 to enable the process to be concluded. If this is the Cabinet's decision then the staff consultation period will also need to be extended.
- 4.8 At the meeting of Council on 22 May 2018, where the future of the outdoor education was debated in response to a petition, Cabinet was asked to take account of the issues raised in the debate and when considering offers from alternative providers at their meeting; *"that any decision taken by the cabinet should be open and transparent, and that social impacts should be considered equally with financial impacts, and that the Cabinet use every best effort to ensure the two sites will remain in use for outdoor education"*.
- 4.9 <https://cms.wiltshire.gov.uk/mgAi.aspx?ID=77254> (Minute 28 refers)
- 4.10 Applying a formal market testing process has the benefit of responding positively to the Full Council resolution to "use every best effort" to find an alternative to the Council operating the sites and will allow for proper due diligence and assessment of the proposals against open criteria. Cabinet should also be aware there is still the potential that no suitable operator will be available after full due diligence and so closure on 31 December 2018 would then be inevitable.
- 4.11 From an initial review of the current expressions of interest it may be that the Cabinet needs to consider a value for the sites being less than could be achieved for alternate uses (subject to planning). The social value of any proposals will need to be considered in the market testing process and potentially a further Cabinet decision to dispose of the sites at less than best financial consideration could be required.

5. Property Considerations

- 5.1 In anticipation of the potential requirement to repurpose the sites a report has been prepared and submitted for the 12 June Cabinet, by Strategic

Assets & Facilities Management for permission to dispose of the Braeside and Oxenwood sites (see Agenda Item No 10). Whilst this report seeks permission to Cabinet's approval to dispose, it allows officers, in consultation with the relevant Cabinet members, to consider the most appropriate method of disposal.

- 5.2 To aid the Cabinet in the decision-making process and support the interested parties in development of their proposals the condition surveys for both sites have been updated.
- 5.3 In addition, the pre-planning application process has been commenced and is ongoing. This will outline how any subsequent planning application would be viewed. The sites will have multiple values depending upon their intended use; if, for example, a site is to be used as an outdoor education centre it will be valued differently than if it were to be used for development. The Council is required to take the valuation advice into consideration in fulfilling its obligations to secure the best consideration reasonably obtainable under section 123 Local Government Act 1972 (including social value where justified). The Council also has a duty to secure Best Value by making arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness; Section 3 of the Local Government Act as Amended.

6. Overview and Scrutiny Engagement

- 6.1 Scrutiny has been engaged in two rapid scrutiny exercises on outdoor education and traded services conducted on 13 September and 18 October 2017, following which a specific outdoor education Task Group was established.
- 6.2 The outdoor education Scrutiny Task Group met on 7 February 2018 and subsequently carried out site visits to Oxenwood and Braeside on 27 February 2018. A report from the Task Group was included in the papers considered by Cabinet on the 27 March 2018.
- 6.3 The Cabinet decision on the 27 March to close both outdoor education sites were called in and the decision was upheld. Further involvement of the Scrutiny task force will be dependent on the Cabinet decision.

7. Safeguarding Considerations

- 7.1 The outdoor education centres provide an education experience for all children including those in vulnerable groups. Safeguarding standards and implications will need to be reviewed as a key component of evaluating any potential alternative providers of this service.

8. Public Health Implications

- 8.1 The outdoor education centres provide outdoor activities for children, contributing to a healthy lifestyle. Access to these activities will remain

available through the potential new suppliers and the various facilities within Wiltshire and in neighbouring counties.

9. Procurement Implications

- 9.1 The proposals to market test the outdoor education sites enables a fair and transparent process to be followed that is compliant with procurement guidelines and legislation.

10. Equalities Impact of the Proposal

- 10.1 A full Equalities Impact Assessment has been completed and as the outdoor education review progresses will be updated at key milestones. The proposal of market testing and exploring the alternative proposals for the sites potentially mitigates any detrimental effect or impact for disadvantaged communities and ethnic minorities who may not get the chance to experience the benefits of outdoor education. Equality impacts will be reviewed during this process.

11. Environmental and Climate Change Considerations

- 11.1 There are no environmental or climate change impacts.

12. Risks

- 12.1 Opportunities and risks of this report have been considered.

13. Risks that may arise if the proposed decision and related work is **not** taken

13.1 If the decision is to **not** explore the options for outdoor education in Wiltshire with the organisations expressing an interest then the risks identified below as part of the planned closure process will remain.

1 Risk	Action to mitigate the risk
Negative feedback from customers/disappointment re cancelled bookings.	Engagement and consultation with all major stakeholders through established routes.
2 Inability to honour future bookings during closure phase.	Schools with bookings have been warned so that they can arrange alternative provision and potential negotiation with other providers to transfer any existing bookings/provide support for local schools.
4 Impact on income	Costs reduced and managed approach to

13.2 **Risks** that may arise if the proposed decision **is taken** and actions that will be taken to manage these risks -

	Risk	Action to mitigate the risk
1.	Negative feedback from customers re new provider/s	Engagement and consultation with all major stakeholders through established routes.
2.	Inability to honour future bookings during transition phase	Working closely with the new provider/s to transfer any existing bookings/provide support for local schools.
3.	Redundancy risks to staff	Opportunities to TUPE transfer into new roles to be fully explored.
4	Impact on income	Options for promoting the services during the market testing and transition phase.
5.	Risk of commercial failure from the potential new provider/s.	Robust evaluation of the proposals and commercial models to protect the Councils interest and ensure a satisfactory service for local schools.
6.	Financial Risk to the Local authority	Please see comments below.
7.	Qualified and Experienced Workforce	The continued successful operation of the sites and transition will require the goodwill and cooperation of the workforce. exit from the service to mitigate as far as possible.

14. Financial Implications

- 14.1 The service has been offered on the basis of full cost recovery (i.e. not for profit) however, centres have been operating at a loss for some time. The 2017/18 operating loss excluding depreciation was £0.100 million. The Council has been offsetting these losses against reserves which is financially unsustainable.
- 14.2 A decision to extend the period of operation to 31 December 2018 will have a negative impact on the savings planned from the outdoor education sites

closure and it will be unlikely the £0.135 million budgeted savings in property will be realised in 2018/19. There is already and will continue to be an adverse impact on income received from the sites in 2018/19. Initial modelling of loss of income indicates the annual income targets of £0.469 million for Braeside and £0.221 million for Oxenwood will not be achieved. Anticipated income shortfall is estimated at £0.255 million assuming the centres remain open until December 2018. It should be noted that there may be some ability to reduce running costs to partially offset these shortfalls but these are limited. Further modelling will be undertaken on this loss of income and an emphasis on communications and marketing to exploit the opportunities available through the extended opening to mitigate this loss.

- 14.3 Proposals submitted for the future use of the buildings will be subject to financial scrutiny and will consider the best interests of the Council, including removal of financial risk, the long term commercial viability of the models proposed and providers' consideration to the future capital risk of £1.412m estimated to keep the Centres open.

15. Legal Implications

- 15.1 The Cabinet resolved to close the centres on 27 March 2018. That decision was based on the facts known at the time. It therefore was and is a valid decision of the Council (through Cabinet) until either varied or revoked by Cabinet.
- 15.2 Subsequently further information has suggested that the sites could be disposed of by the Council but with the provision of outdoor education still be maintained at the sites.
- 15.3 In the short time, available full due diligence has not been able to be carried out to inform Cabinet of these alternatives. This report is seeking a decision from Cabinet to extend the date for closure of the centres from 31 August 2018 to 31 December 2018 to allow such due diligence to be completed.
- 15.4 It is anticipated that a further report to Cabinet will be required Cabinet in November 2018 reporting on the outcome of such due diligence. It is anticipated that this report will confirm the result of the due diligence. If a viable alternative(s) is/are available which allows disposal but secures outdoor education at the sites then consideration would need to be given to revoking the original decision and substituting a suitable alternative proposal. If the result is no viable alternatives are available then confirmation that the 27 March 2018 decision would stand.
- 15.5 On 22 May 2018, as a result of a petition, Council resolved: -

That any decision taken by the cabinet should be open and transparent, that social impacts should be considered equally with financial impacts, and that the Cabinet use every best effort to ensure the two sites will remain in use for outdoor education

- 15.6 Formal market testing is an appropriate methodology to ensure openness and transparency and that best efforts are applied to trying to identify viable alternatives which would allow the two sites to remain in use for outdoor education.
- 15.7 During the due diligence, best efforts means using resources efficiently, economically and effectively, avoiding waste and extravagance and generally seeking good value (Government guidance on managing public funds July 2013 with annexes revised as at March 2018). Financial, legal and strategic property support will be utilised throughout the due diligence process to ensure that both financial and social impacts are identified and able to be appropriately considered.
- 15.8 As any alternative option may affect the outcome of the current staff consultation it is appropriate that this consultation is extended pending the outcome of the formal market testing. HR support will be engaged during this process to ensure that any effect of the delay is minimised.

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June 2018

Background Papers

None