

Birmingham City Council

Report to Cabinet Member for Education Skills and Culture

9th December 2020



Subject: PROPOSAL TO ALTER THE AGE RANGE TO REMOVE NURSERY PROVISION AT KITWELL PRIMARY SCHOOL AND NURSERY CLASS

Report of: Director of Education and Skills

Relevant Cabinet Member: Councillor Jayne Francis, Education Skills and Culture

Relevant O &S Chair(s): Councillor Kath Scott, Education & Children's Social Care

Report author: Jaswinder Didially
Head of Service Education Infrastructure;
Telephone No: 0121 303 8847
Email
Address: Jaswinder.didially@birmingham.gov.uk

Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Bartley Green Ward		
Is this a key decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, add Forward Plan Reference:		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential:		

1 Executive Summary

1.1 To seek the determination of a statutory proposal to:

Alter the age range of Kitwell Primary School and Nursery Class from 3 – 11 years to become 4 -11 years to remove the nursery provision.

2 Recommendations

That the Cabinet Member for Education, Skills and Culture;

- 2.1 Approve, having taken into account the statutory guidance, the statutory proposal to alter the age range to remove the nursery provision at Kitwell Primary School and Nursery Class with effect from 31st December 2020.

3 Background

- 3.1 Kitwell Primary School and Nursery Class is a community primary school with an admission number in reception of 30. The school is situated in the Bartley Green ward in the Edgbaston district of the City. The age range of the school is 3 – 11 years. The school has a 26 full time equivalent (FTE) nursery class that can offer 52 part time nursery places.
- 3.2 The nursery was operating at approximately 80% capacity in spring 2019 which decreased to approximately 46% capacity by spring 2020.
- 3.3 Since the school wrote to parents about the circumstances of the nursery earlier in year, families have found alternative placements for their children and the nursery currently has no pupils on roll.
- 3.4 The Governing Body of Kitwell Primary School and Nursery Class wrote to Birmingham City Council requesting that a proposal be made to remove the nursery provision by a change to the age range of the school.
- 3.5 The Local Authority is proposing to alter the age range of Kitwell Primary School and Nursery Class from 3 -11 years to become 4 – 11 years to remove the nursery provision.
- 3.6 There is currently an over-supply of 186 part time equivalent Early Education and Childcare provision (0 -4 age range) in the Bartley Green ward, in which Kitwell Primary School and Nursery Class is situated.
- 3.7 There are 27 early-years providers in the Bartley Green ward, consisting of 1 maintained nursery school, 3 nursery classes managed by primary schools, 14 childminders and 9 full day-care - private, voluntary and independent (PVI) nursery providers. There is sufficient provision within the Bartley Green Ward as currently the demand is 1,030 part-time equivalent places (PTE) and the number of places currently available is 1,316 PTE (approximately 300 more places available than required).
- 3.8 The nursery provision is currently funded through Early Education Entitlement funding for eligible 3 and 4 year-olds based on actual termly attendance. Schools operating a nursery class with a large number of unfilled places can be a risk to the financial viability and sustainability of the nursery which can impact on the budget of the school.
- 3.9 Due to the low numbers on roll, the cost of providing the nursery provision at Kitwell Primary School and Nursery Class, costs more than the amount of money received. If a nursery is financially unviable, there is a risk that this can impact the budget of the school.

- 3.10 There are no safeguarding concerns resulting from the closure of the nursery. There are currently no pupils in the nursery class.
- 3.11 The school has been working in collaboration with the Early Years and Childcare team at the Local Authority who support the proposal to close the nursery.
- There are sufficient nursery providers in the area to accommodate the pupil numbers that are forecast in the Bartley Green ward. The closure of the nursery may contribute to the sustainability of other nursery providers in the area.
- 3.12 Should the proposals be approved the current nursery space will be used as a teaching classroom for other children in the school.
- 3.13 In compliance with DFE guidance and best practice, a pre-publication letter was sent out 7th September 2020 to stakeholders, including parents/carers of pupils of the school, advising of the forthcoming statutory consultation and inviting any initial questions or comments to be directed to the school or the School Organisation Team (Education Infrastructure). A copy of the pre-publication letter can be found in **Appendix 1**.
- 3.14 A statutory notice and proposal were published with a representation period between 24th September 2020 and 22nd October 2020 (four weeks) and commenced with the publication of a statutory notice in the Birmingham Post. During the four week representation period, comments on the proposal could be submitted in writing to Education Infrastructure, via the BeHeard webpages, email or letter. A copy of the full proposal and the public notice can be found in **Appendices 2 & 3**.
- 3.15 At the close of the representation period 3 responses were received, all were in favour of the proposal. Copies of the anonymised comments can be found in **Appendix 4** of this report.
- 3.16 Details of both the internal and external stakeholders consulted and the means by which the consultations were carried out are detailed in section 5 of this report.
- 3.17 The Education and Inspections Act 2006 and Regulation 7 of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the Prescribed Alterations Regulations) state that the Local Authority must have regard to any guidance issued by the Secretary of State when making a decision on such proposals. The relevant statutory guidance is attached (Appendix 6). The Education and Inspections Act 2006, and Paragraph 5 of Schedule 3 to the Prescribed Alterations Regulations allows for the proposals to be approved, approved with modification, approved subject to meeting a prescribed condition, or rejected.
- 3.18 If the proposal is approved, the age range of Kitwell Primary School and Nursery Class will change to 4 – 11 years and the nursery provision will be removed with effect from 31st December 2020.

4 Options considered and Recommended Proposal

- 4.1 It is recommended that the proposal to alter the age range of Kitwell Primary School and Nursery Class to 4 – 11 years to remove the nursery be approved. The proposal to remove the nursery would ensure that there is no financial strain on the school budget from the school subsidising the running costs of the nursery class. The proposal will allow the school to focus their time and finances on Key Stage 1 and 2 provision.
- 4.2 Should the proposal be rejected, the nursery provision will continue to be subsidised from the school budget. There would be a risk that the school budget could fall into serious deficit over time which could have a wider impact on standards, finances and ultimately the future of the school.

5 Consultation

5.1 Internal

During the statutory consultation period, information about the proposal was sent to:

- Ward Councillors for Bartley Green Ward.
- Officers from services across Birmingham City Council including Admissions, Finance, School and Governor Support, Early Years and Childcare, Human Resources, Legal, Planning, Research and Statistics Information Officers for Education and Skills.

Details of the responses received and outcome of the statutory consultation is set out in **Appendix 4**. The Ward Councillors consulted and the date and method of consultation is set out in **Appendix 5**.

5.2 External

- 5.2.1 The proposal has been fully consulted upon in line with the requirements set out in the statutory guidance “Making significant changes (‘prescribed alterations’) to maintained schools” (October 2018) published by the Department for Education (DfE). Department for Education guidance for decision makers can be found in **Appendix 6**.
- 5.2.2 During the pre-statutory consultation period, information about the proposal was publicised to the parents/families, teaching staff, and non-teaching staff of the school.

During the statutory consultation period, information about the proposal was publicised to all stakeholders consulted during the pre-statutory period and the following additional consultees:

- Birmingham Schools
- Neighbouring Local Authorities
- The Archdiocesan and The Anglican Diocese of Birmingham
- Professional Associations and Trade Unions
- Local Councillors for Bartley Green Ward

- Members of Parliament for Edgbaston
- Department for Education – School Organisation

5.2.3 The information was publicised in the following ways:

- Public notice in Birmingham Post newspaper
- On Birmingham City Council BeHeard webpage
- On the school's webpages
- On the Birmingham City Council School Notice Board
- Emails to stakeholders and groups

5.2.4 A copy of the full proposal document can be found in **Appendix 2** and the Public Notice in **Appendix 3**. The outcome of the external consultation is set out in Section 3 of this report and a copy of the anonymised responses is in **Appendix 4**.

6 Risk Management

6.1 Should the proposal to change the age range to 4 – 11 years to remove the nursery provision not be approved, the nursery class at the school will remain. If the nursery continues to operate with no pupils or at low capacity and the school continues to subsidise the nursery from the whole school budget, this would risk the school developing budget deficit which could impact on the quality of education and future of the school.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 There is currently a large over supply of Early Education and Childcare provision (0 to 4 age) in the local area surrounding Kitwell Primary School and Nursery Class i.e. Bartley Green ward. A school with a large number of unfilled nursery places can be a risk to the financial viability and sustainability of the nursery which can impact the budget of the school. There is currently sufficient supply to fulfil our statutory duty.

7.2 Legal Implications

7.2.1 This report exercises powers contained within sections 19 and 21 of the Education and Inspections Act 2006 and Schedule 2 and Schedule 3 to the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the "Prescribed Alterations Regulations"), whereby the Local Authority of a Community School can propose to alter the age range to remove the nursery provision by following a statutory process. Under the Prescribed Alterations Regulations, the Local Authority is the decision maker for this statutory proposal.

7.3 Financial Implications

7.3.1 In January and March 2020, the school reported a deficit in the nursery financial position of -£6,196. This was with 12 full-time equivalent pupils on roll. Pupil

figures were not forecast to increase to a level that would be sustainable without increasing the deficit and reliance on subsidy from the school's main budget. As families have since found alternative provision and with no pupils on roll in the nursery, the deficit position will not improve and the nursery provision will continue to be subsidised from the main school budget. The school are managing staffing costs through some natural-wastage and reduced fixed term contracts until a decision on the future of the nursery. The current and future staffing costs can be contained within the main school budget, if this proposal is approved for implementation.

7.4 Procurement Implications (if required)

Not applicable.

7.5 Human Resources Implications (if required)

Staffing at the school has reduced through vacancies and a reduction in fixed term contracts. All permanent nursery staff will continue to have the opportunity for alternative roles within the school. The school leadership will continue to be responsible for the staffing at the school and any restructuring that may be required at any time.

7.6 Public Sector Equality Duty

- 7.6.1 An updated Equality Assessment initial screening was carried out in October 2018 (EQUA221) for the School Organisation Change process, which identified that a full impact assessment was not required. No events have occurred since then which would require the preparation of a fresh screening in respect of these recommendations.

8 Background Documents

8.1 List of Documents

- Education and Inspections Act 2006
- School Organisation regulations 2013
- Making significant changes ('prescribed alterations') to maintained schools: "Statutory guidance for proposers and decision makers" published by the Department for Education (DfE) October 2018.

8.2 List of Appendices accompanying this Report (if any):

- 1. Pre-publication consultation letter
- 2. Full Proposal Document
- 3. Public Notice
- 4. Statutory Consultation Results
- 5. Ward Councillors Consulted.
- 6. Guidance for Decision Makers