

Birmingham City Council

Report to Cabinet Member for Education Skills and Culture

June 2021



Subject: PROPOSAL TO ALTER THE AGE RANGE TO REMOVE NURSERY PROVISION AT ST BENEDICT'S PRIMARY SCHOOL

Report of: Director of Education and Skills

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

Relevant O &S Chair(s): Councillor Narinder Kaur Kooner, Education & Children's Social Care

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Are specific wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s): Small Heath		
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 St Benedict's Primary School from 3 – 11 years to become 4 -11 years to remove the nursery provision.

2 Recommendations

- 2.1 That the Cabinet Member for Education, Skills and Culture;
Approve, having taken into account the statutory guidance, the statutory proposal to alter the age range to remove the nursery provision at St Benedict's Primary School with effect from 31st August 2021.

3 Background

- 3.1 St Benedict's Primary School is a community primary school with an admission number in reception of 60. The school is situated in the Small Heath ward in the Hodge Hill 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 Governing Body of St Benedict's Primary School 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.
- 3.3 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.
- 3.4 The Local Authority is proposing to alter the age range of St Benedict's Primary School from 3 -11 years to become 4 – 11 years to remove the nursery provision.
- 3.5 The nursery has been operating at approximately 50% capacity. There are currently 26 pupils on roll in the nursery. All pupils are due to leave at the end of the current academic year, in July 2021.
- 3.6 There are currently 11 pupils on the waiting list. All parents who applied for a place for their child in the nursery and are on the waiting list for September 2021 were advised, on application that the Local Authority would be consulting on the closure of the nursery with effect from 31st August 2021. All parents of pupils on the waiting list were consulted during both the pre-publication and the statutory consultation phases of this proposal.
- 3.7 Parents of pupils on the waiting list were advised to apply for places for their children at alternative early years settings in the event that the proposal to close the nursery is approved. The school and the Local Authority Early Years and Childcare Team will be able to advise and support parents to find alternative places should the proposal be approved.
- 3.8 There is an over-supply of 372 part time equivalent Early Education and Childcare places (0 to 4 age range) in the Small Heath ward in which St Benedict's Primary School is situated.
- 3.9 There are an additional 5 nursery classes managed by Primary Schools, 5 local private, voluntary and independent childcare providers and 6 childminders

operating within the Small Heath Ward. There is also a significant oversupply of 2,259 part time equivalent Early Education and Childcare places (0 to 4 age range) in the wards that surround the Small Heath Ward i.e. Heartlands, Sparkbrook and Balsall Heath East, Bordesley Green and Tyseley and Hay Mills. The closure of the nursery may contribute to the sustainability of other nursery providers in the area.

- 3.10 The nursery provision is currently funded through Early Education Entitlement funding for eligible 3 and 4 year-olds based on actual termly attendance. Due to the low numbers on roll, the cost of providing the nursery provision at St Benedict's Primary School, 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.
- 3.11 There are no safeguarding concerns resulting from the closure of the nursery.
- 3.12 There will be no staff reductions resulting from this proposal. The school is currently transitioning from an infant school to a primary school and the school will have another year group to staff from September 2021. Should the proposal to close the nursery be approved all staff will be redeployed within the school.
- 3.13 The nursery accommodation will be used as teaching space for KS1 and KS2 classes.
- 3.14 In compliance with DFE guidance and best practice, a pre-publication letter was sent out on 22nd February 2021 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 Estates Management Team (Education Infrastructure). A copy of the pre-publication letter can be found in **Appendix 1**.
- 3.15 Emails were also sent to a wider range of stakeholders including Local Councillors and neighbouring authorities. Two responses were received to the emails, one from a Local Councillor requesting information as to why the nursery was closing and the other from Worcestershire County Council advising that they had no comments to make as the closure did not impact them. An email was sent directly to the Local Councillor with information and Worcestershire County Council's comments were noted.
- 3.16 A statutory notice and proposal were published with a representation period between 22nd April 2021 and 20th May 2021 (four weeks) and commenced with the publication of the 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**.
- 3.17 At the close of the representation period 10 responses were received, of which 3 were in favour and 7 were opposed to the proposal. Copies of the anonymised comments can be found in **Appendix 4** of this report.

- 3.18 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.
- 3.19 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.
- 3.20 If the proposal is approved, the age range of St Benedict's Primary School will change to 4 – 11 years and the nursery provision will be removed with effect from 31st August 2021.

4 Options considered and Recommended Proposal

- 4.1 It is recommended that the proposal to alter the age range of St Benedict's Primary School 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 Councillor Small Heath ward.
- Ward Councillors of wards within the Hodge Hill District
- 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 Councillor for Small Heath Ward
- Local Councillors of wards within the Hodge Hill district.
- Member of Parliament for Hodge Hill
- 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 budget deficit increasing which could impact on the quality of education and ultimately the 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 St Benedict's Primary School i.e. Small Heath and neighbouring wards. 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 At the end of the 2019/20 financial year St Benedict's had a cumulative deficit of £752,845. The schools recent budget plan for the financial year 2021/22, which was approved in March 2021, was estimating a cumulative deficit of £635,454 at the end of March 2021 and then a cumulative deficit of £537,705 at the end of March 2022.

The final figures for 2020/21 have not been confirmed yet and are therefore subject to change. Recently reviewed information indicates that this may have reduced to a cumulative deficit of £528,272 at the end of March 2021.

The nursery has been operating with approximately 50% unfilled places. For academic year 2020/21 they took in an average of 26 pupils per term. The forecasted number on roll in the nursery for September 2021 is much less. Closing the nursery should relieve any future pressure on the school budget.

7.4 Procurement Implications (if required)

Not applicable.

7.5 Human Resources Implications (if required)

- 7.5.1 All permanent nursery staff will continue to have the opportunity for alternative roles within the school. The school is currently transitioning from an infant school to a primary school and will have another year group to staff in September 2021. The nursery staff will be deployed into other roles in the school and will mitigate the need for any redundancies or for the school to employ further teaching staff.

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