

# Birmingham City Council

## Report to Cabinet Member for Education Skills and Culture

27 May 2020



**Subject:** PROPOSAL TO ALTER THE AGE RANGE TO REMOVE NURSERY PROVISION AT GRENDON PRIMARY SCHOOL

**Report of:** Dr Tim O'Neill  
Director of Education and Skills

**Relevant Cabinet Member:** Cllr Jayne Francis, Education Skills and Culture

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

**Report author:** Jaswinder Didially  
Head of Service Education Infrastructure;  
Telephone No: 0121 303 8847  
Email: [Jaswinder.Didially@birmingham.gov.uk](mailto: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): Highters 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 Grendon Primary School from 3 – 11 years to 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 Grendon Primary School with effect from 31<sup>st</sup> July 2020.

## **3 Background**

- 3.1 Grendon Primary School is a two form entry community primary school with an admission number in reception of 60. The school is situated in the Highters Heath ward in the Selly Oak 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 school has not admitted pupils into the nursery for the last two years, this was a temporary closure with the agreement of the Local Authority and it was felt necessary as the number of pupils attending the nursery at the school had been lower in previous years, with the nursery operating at 48% capacity prior to the temporary closure.
- 3.3 The Local Authority is proposing to alter the age range of Grendon Primary School from 3 -11 years to 4 – 11 years to remove the nursery provision.
- 3.4 There is currently an over-supply of 186 part time equivalent Early Education and Childcare provision (0 -4 age range) in the Highters Heath ward, in which Grendon Primary School is situated.
- 3.5 There are 15 early year providers in the Highters Heath ward, consisting of 1 nursery class managed by primary schools, 10 childminders and 3 full day care private, voluntary and independent (PVI) nursery providers and 1 nursery school.
- 3.6 The nursery provision is currently funded through Early Education Entitlement funding for eligible 3 and 4 year olds based on actual termly attendance. Nurseries operating 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.
- 3.7 Due to the low numbers on roll, the cost of providing the nursery provision at Grendon Primary School, prior to the temporary closure, was costing more than the amount of money received. If this continued there could have been a risk to the financial viability and sustainability of the nursery which could impact the budget of the school.
- 3.8 There are no safeguarding concerns resulting from the closure of the nursery. There are currently no pupils in the nursery class.

- 3.9 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 current and future nursery pupil numbers that are forecast in the area. The closure of the nursery may indeed help the sustainability of other nursery providers.
- 3.10 Should the proposals be approved the current nursery space will be used as a teaching classroom for other year groups in the school.
- 3.11 In compliance with DFE guidance and best practice, a pre-publication letter was sent out to pupils, parents and carers on 10<sup>th</sup> February advising of the forthcoming statutory consultation and inviting any initial questions or comments be directed to the school or the School Organisation Team. A copy of the pre-publication consultation letter can be found in **Appendix 1**.
- 3.12 A statutory notice and proposal were published and the representation period ran between 5<sup>th</sup> March 2020 and 2<sup>nd</sup> April 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**.
- 3.13 Due to the COVID-19 state of emergency, all schools closed on 20<sup>th</sup> March 2020. This was some 9 days before the end of the statutory consultation.
- 3.14 At the close of the representation period 3 responses were received, of the three responses, two were opposed to the proposal and one was in favour of the proposal. Copies of the responses (anonymised) can be found in **Appendix 4** of this report.
- 3.15 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.
- 3.16 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.
- 3.17 If the proposal is approved, the age range of Grendon Primary School will change to 4 – 11 years and the nursery provision will be removed with effect from 31<sup>st</sup> July 2020.

## **4 Options considered and Recommended Proposal**

- 4.1 It is recommended that the proposal to alter the age range of Grendon 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 nursery class going forward. The proposal will allow the school to focus their time and finances on Key stage 1 & 2.
- 4.2 Should the proposal be rejected, the nursery provision will continue to be subsidised from the school budget. The school budget could fall into deficit over time and would 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 for Highters Heath ward.
- Officers from services across Birmingham City Council including Admissions, Finance, School and Governor Support, 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). A copy of the 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, teaching staff, and non-teaching staff. 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 Highters Heath Ward
- Members of Parliament for Selly Oak
- 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 school will have to reopen the nursery, if the nursery has to admit pupils into the nursery and operate under the capacity of the nursery and continue to fund the nursery from the whole school budget, this would result in the school falling into potential budget deficit which could impact on the future of the school.

COVID-19: On 20<sup>th</sup> March 2020 the Government instructed that all schools close. Whilst there is a risk that the Council can be challenged for acting unreasonably due to the school being closed prior to the end of the statutory consultation stage, the Council are still proposing the closure of Grendon Nursery with effect from 31<sup>st</sup> July 2020. Although the School's Nursery has been closed for the past 2 years on a temporary basis and these proposals are to make it permanent, should the Council delay this proposal, they would be in breach of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 as you have to follow the statutory process for the permanent removal of a nursery that has been closed on a temporary basis for two years.

## **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 Grendon Primary School i.e. Highters Heath 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 There are currently no pupils on roll in the nursery as the nursery has been closed on a temporary basis since September 2018.

Grendon Primary School received £63,473 in 2018/19 and £50,372 in 2017/18 for the nursery provision.

Grendon Primary School had a surplus balance of £170,272 at the end of 2018/19.

At the end of 2019/20 the school’s surplus have reduced to £132,690 based on the information provided by the school.

Had the nursery remained open it is likely that this figure would be further reduced as the school would have to subsidise the nursery class from the school budget.

### **7.4 Procurement Implications (if required)**

Not applicable.

### **7.5 Human Resources Implications (if required)**

The school leadership will continue to be responsible for the staffing at the school and any restructuring that may be required. All nursery staff will be found alternative roles within the school.

### **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 Appendices accompanying this Report:

- 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

## 8.2 List of Background Documents

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