

## **CABINET MEMBER FOR EDUCATION – 24 JUNE 2013**

### **CLOSURE OF FIVE ACRES NURSERY SCHOOL AND ALTERATION OF LOWER AGE LIMIT AT FIVE ACRES PRIMARY SCHOOL**

#### **Report by Director for Children's Services**

#### **Introduction**

1. At the meeting on 26 February 2013 OCC Cabinet agreed to the publication of formal proposals to alter the lower age limit at Five Acres Primary School in order to admit 3 year olds, and a linked proposal to close Five Acres Nursery School as a separate establishment. The report outlining the basis for this decision is available to view on the public website as one of the documents pertaining to the Cabinet meeting on that date.
2. The statutory notice listing the two linked proposals (Annex 1) was published by the Authority in the Bicester Advertiser on 13 March 2013 and expired following 4 weeks of formal consultation on 26 April 2013. In accordance with legislation the notice was also posted at the school gate and sent to the local library. A copy of the two full proposal documents (Annexes 2 and 3) and the notices were sent to the governing body and the Secretary of State and additionally made available on the Oxfordshire County Council website.
3. The decision-making power in terms of determining the notice lies with the Cabinet or can be delegated to the Cabinet Member for Schools Improvement (if there have been no objections). In meeting as 'decision-maker' the Cabinet or Cabinet Member must have regard to government guidance and statutory timescales otherwise a decision can be referred to the independent Schools' Adjudicator for reconsideration. The decision must be made within 2 months of the close of the notice period; as a consequence, it is necessary for the Chairman of the Council to determine that the decision cannot be subject to 'call-in' as this would, in most cases, prevent a decision being finalised within the required timescale and mean that the Cabinet's role would be negated by referral to the Schools' Adjudicator.
4. As no objections in relation to the proposal have been received the decision is referred to the Member for Education. The proposed implementation date for the proposal is 1 September 2013.

#### **The Proposal**

5. The proposal is to merge Five Acres Primary School with its federated Nursery School. The legal mechanism to achieve this is to formally close the Nursery School, and extend the age range of the Primary School to include 3 year

olds. Currently the same Governing Body and Headteacher run both establishments. Under this proposal, the services provided by each school would continue, under the same management as presently but with simplified administration.

6. The reasons for proposing this change are to consolidate the Governing Body's financial responsibility into one budget where they currently must manage two. With a single budget to manage, funding could be directed toward priorities agreed upon across the whole school whereas currently for example, the primary budget cannot be spent on the nursery school.
7. Additionally if the proposal is approved, only one Ofsted inspection would need to be carried out on the site, and only one set of data requested by the Department for Education would need to be returned by the school staff. This would release administrative and management time in each case.
8. Because of changes made in April 2011 by the DfE to the Early Years Single Funding Formula for nursery schools, there is now no financial advantage to running two establishments in parallel and the duplication of work and time would increasingly become an unnecessary financial drain on the Governing Body.
9. There would be no noticeable change as a result of this proposal for the staff, children or parents. The change proposed is purely administrative in nature. No change to school admission rules would follow.

## **Representations**

10. The formal representation (Statutory Notice) phase was from 13 March 2013 – 26 April 2013 and a Statutory Notice (Annex 1) was publicly displayed at Five Acres Primary School, was also available on the OCC website and was published in The Bicester Advertiser newspaper on 13 March 2013.
11. No representations were received in response to the publication.
12. As no objections in principle to the proposal have been raised, the decision on whether to implement the proposal is referred to the Member for Education rather than the Cabinet.

## **Legal background**

13. School expansions and closures are subject to statutory procedures, as established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 (as amended). Local authorities also have a duty to have regard to statutory guidance, in this particular case 'Making Changes to a Maintained Mainstream School', pages 20-36 and "Closing a Maintained Mainstream School" ("the Guidance")pages19-34. When reaching a decision, Cabinet Member must have regard to The Guidance. Cabinet Member is referred in particular to pages in The Guidance.

14. Guidance on closing maintained schools states that *“In deciding whether to approve any proposals to close a nursery school, the Decision Maker should be aware that nursery schools generally offer high quality provision, and have considerable potential as the basis for developing integrated services for young children and families. There should be a presumption against the closure of a nursery school unless the case for closure can demonstrate that:*
  - (a) *the LA is consistently funding numbers of empty places;*
  - (b) *full consideration has been given to developing the school into a Sure Start Children's Centre, and there are clear, justifiable grounds for not doing so, for example: unsuitable accommodation, poor quality provision and low demand for places;*
  - (c) *plans to develop alternative provision clearly demonstrate that it will be at least as equal in terms of the quantity and quality of early years provision provided by the nursery school with no loss of expertise and specialism; and that*
  - (d) *replacement provision is more accessible and more convenient for local parents.”*
15. This proposal, while legally closing the nursery school, would continue to offer the same level of service at the same location, and therefore nursery provision will not change as a result of this proposal.
16. In terms of reaching a decision all proposals should be considered on their merits but the following factors should be borne in mind but are not considered to be exhaustive. The Decision Maker should consider the views of all those affected by the proposals. The Member for Education, as Decision Maker, must be satisfied that the statutory consultation has been carried out prior to the publication of the notice. Details of the consultation should be included in the proposals. The Decision Maker must be satisfied that the consultation meets statutory requirements. If the requirements have not been met, the Decision Maker may judge the proposals to be invalid and should consider whether they can make a decision on the proposals. Alternatively the Decision Maker may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposals as a whole.
17. **The effect on standards, school improvement and diversity.** The government aims to create a dynamic system shaped by parents that delivers excellence and equality, closing weak schools, encouraging new providers and popular schools to expand. Decision Makers should be satisfied that the proposals will contribute to raising local standards of provision and improved attainment and consider the impact on choice and diversity. They should pay particular attention to the effect on groups that tend to under-perform including children from certain ethnic minorities and deprived backgrounds. The decision-maker should consider how the proposals will help deliver the ‘Every Child Matters’ principles.
18. **School characteristics.** The Decision Maker should consider whether there are any sex, race or disability discrimination issues that arise and whether

there is supporting evidence to support the extension and take into account the existence of capacity elsewhere. The Decision Maker needs to consider the accessibility of the provision for disadvantaged groups as the provision should not unduly extend journey times or cost.

19. **Need for places.** The Decision Maker should consider whether there is a need for the expansion and should consider the evidence presented for the expansion. There is a strong presumption that proposals to expand popular and successful schools should be approved. If surplus capacity exists in neighbouring schools the Decision Maker should ask how it is planned to tackle any consequences for other schools.
20. **Funding and land.** The Decision Maker should be satisfied that any land, premises and capital required to implement the proposals will be available.

### **Financial and Staff Implications**

21. The financial implications of this report are considered to be positive and are linked to the desired consolidation of the budgets for the Five Acres site as a whole, to produce improved efficiency and reduce workload for the governors and school staff.

### **Equality and Inclusion Implications**

22. There are not considered to be any equality and inclusion implications arising from this proposal. Should the merger go ahead following statutory consultation, the same services will be provided in the same location.

### **Decision**

23. In considering the proposals for a school expansion, the Decision Maker can decide to:
  - Reject the proposals;
  - Approve the proposals;
  - Approve the proposals with a modification (e.g. the implementation date); or
  - Approve the proposals subject to them meeting a specific condition (see the Guidance).

### **RECOMMENDATION**

24. **The Cabinet Member for Education is RECOMMENDED to approve the alteration of the lower age limit of Five Acres Primary School and the linked closure of Five Acres Nursery School with effect from 1 September 2013.**

