

CABINET – 15 MARCH 2011

PROPOSAL TO MERGE ELMS ROAD NURSERY SCHOOL AND BOTLEY PRIMARY SCHOOL

Report by Director for Children, Young People & Families

Introduction

1. Botley Primary School (BPS) and Elms Road Nursery School & Children's Centre (ERNSCC) share the same site on the outskirts of Oxford. Although the nursery and primary schools are separate establishments, the foundation stage pupils of both schools are taught in the purpose-built setting of the Elms Road Nursery School & Children's Centre, by staff from both schools. The headteacher of ERNSCC is responsible for day-to-day management of foundation stage teaching, in consultation with the headteacher of Botley Primary School.
2. Currently the arrangements are not fulfilling the potential of the single site and attached buildings, and are not providing the best possible facilities for all children. A great deal of time and effort is required to coordinate management across the two establishments. There is significant tension between the two schools which is not ultimately helpful to children and their parents.
3. The introduction in April 2011 of the Early Years Single Funding Formula (EYFSS) is expected to reduce the budget of Elms Road Nursery School because the early years places currently funded at the nursery school are not consistently filled with over-3s throughout the year, and therefore will not all qualify for funding under the new formula. Elms Road Nursery School has to date been unwilling to consider solutions to reduce costs which involve their headteacher teaching.
4. Attempts by the local authority have been made to facilitate a solution. Significant time by officers, Cabinet Member and the local member has been given to trying to find a suitable agreement between the two schools. These proposals follow the unsuccessful investigation of a federated model.
5. It is important to emphasise that both schools have their strengths. Some parents have the impression that merger would mean less focus on the Early Years aspects of the school. This is not the case, as we are very clear that appropriate Early Years provision is key to the continuing success of children. A combined school could ensure greater continuity of education for children from nursery to their primary experience.

Background

6. Cabinet agreed on the 21 December 2010 (Report attached as Annex 1) to the publication of a linked formal statutory notice advising the public of the proposed closure of Elms Road Nursery School and extension of age range at Botley Primary School to bring about a merged school. The statutory notice (attached as Annex 2) and statutory proposal (attached as Annex 3) were published on 7 January 2011 with a 6 week period allowed for representations which closed on the 18 February 2011.
7. In accordance with the statutory procedures, a decision is now required whether to merge the two schools through the closure of Elms Road Nursery School and the expansion of age range at Botley Primary School.

Summary of Representations Made

8. A parent focus group opposed to the merger held a meeting and distributed a leaflet aimed at encouraging parents to respond. This is attached as Annex 9. 20 people returned objection forms circulated with this leaflet, which effectively formed a disaggregated petition.
9. The first representations were received on 10 January and by the close of the statutory six week period on 18 February a total of 72 individual responses (including the 20 petition responses) had been received, of which 56 (78%) were objections. Representations by category of respondent and support or opposition to the proposal are summarised in the table below.

Category of Respondent	Not Opposed	Opposed to the Proposal
Parent/carer of child at Elms Road Nursery School	0	8
Parent/carer of child at Botley Primary School	2	7
Parent/carer of children at both Botley Primary School and Elms Road Nursery School & Children's Centre	2	6
User of the Children's Centre at Elms Road	0	17
Staff/governor at Elms Road Nursery School & Children's Centre	0	12
Staff/governor at Botley Primary School	11	0
Other	1	6
Total	16	56

10. Also received were letters from the governing bodies and headteachers of both schools, and a letter from the staff of Botley Primary School. These are attached as Annexes 4-8. The letters from the staff, governors and headteacher of Botley Primary School support the proposal; those from the governors and headteacher of Elms Road Nursery School oppose the

proposal. (As shown above, there were also a number of individual responses from staff and governors at both establishments).

11. The following issues were raised by respondents in favour of the proposal:
- Will allow clearer management structure and more effective use of management time.
 - Will reduce problems of lack of coordination between the two schools, e.g. times of day, school events.
 - Will allow staff to work as one team. Easier to share good practice and skills.
 - Will allow more flexible use of site and resources.
 - Will improve educational standards for all ages of children.
 - Foundation Stage children will be better prepared for Key Stage 1.
 - Easier to track children's progress.
 - Easier to build relationships with parents.
 - Recent improvements have cost unnecessary time and energy due to separation of schools, acting as a distraction from other key issues.
 - Other options have been exhausted.
 - Will support Botley Primary School in continuing to improve standards.
 - The combined school will be able to respond more flexibly to changing pupil numbers.
 - A combined budget will be better able to absorb the changes due to the single funding formula.
12. The following concerns/issues were raised by respondents opposed to the proposal, with the authority's views in boxes:
13. Quality of early years provision:
- High quality of provision at nursery school and children's centre; primary school is of a lower standard.
 - Research supports the quality of provision at nursery schools.
 - Elms Road Nursery School's "outstanding" Ofsted rating would be lost by becoming part of a "satisfactory" school.
 - Botley Primary School's latest Ofsted rated Foundation provision as "good", so current relationship is not harming children's education.
 - The quality of nursery provision could be damaged by loss of specialist headteacher/no evidence that quality will be maintained.
 - Loss of experienced Nursery School governing body.

Research shows that nursery schools do generally provide high quality care and education. However, high quality care and education can also be provided within combined nursery and primary schools. Transition between stages of education has been shown to be of particular importance, and this can be strengthened by merging nursery and primary schools.

The proposed merger would make it easier to share the good practice from each of the existing schools, and help staff work as one team across the whole age range, providing the best care and education for children. It would make it easier for the school to build and maintain relations with

parents from the start, and throughout, their early and primary education.

Although in 2008 Botley Primary School was given a notice to improve by Ofsted, in June 2009 Ofsted reported that Botley Primary School “is a rapidly improving school whose overall effectiveness is now satisfactory with some good features.” We believe that since this inspection BPS has continued, and will continue, to make further improvements.

If the schools merge, the governing body could enlarge to 20, with the additional Parent Governor places and Staff Governor places being subject to election. It is not the intention of this proposal that the skills and input of the ERNSCC governors would be lost to the merged school, but it is for governors and not the County Council to agree the new format.

Although staffing will be the responsibility of the governing body, it is not currently planned to reduce classroom-based early years staff. The combined school would want to continue to employ suitably qualified and experienced staff to ensure high quality education and care.

14. Financial/legal:

- The Primary School Provision would have less funding per pupil due to loss of second fixed funding grant if merged.
- Funding that is currently spent on nursery children could be diverted to older age ranges.
- Proposals are motivated by spending cuts.
- Full cost implications (including redundancy and transition) were not presented during consultation.
- Government presumption against closure of nursery schools, and requirement to show that replacement provision will be at least equal.
- Local opposition to the merger expressed in the first consultation.

Without the proposed merger the Nursery loses some 15% of its funding, and it is unlikely that the Nursery alone could make savings of such a size without reductions in provision which could impact quality. With the merger the £96k reduction is from the much larger combined budget, representing around 9% of the combined budget share (less in the first year). The merger therefore makes the funding reduction much more manageable as a proportion of budget as well as providing the governing body with a number of potential strategies to reduce costs.

Oxfordshire has some 70 primary schools with nursery provision working within a single budget share as would be the case for the merged Botley Primary School. A number of these are rated as good to outstanding by OFSTED, demonstrating clearly that the combined budget does not impose any particular constraint on achievement in those schools.

When additional information about the funding effects of merger was received, the decision to publish statutory notices was delayed to allow both governing bodies to be made fully aware of all the financial implications. It is not thought that the incomplete figures quoted at the time of informal consultation had any significant effect as the position of the governing bodies, and their reasons for their particular stand, remained the same after

the revised figures were made known to them.

Because the closure and amalgamation is being proposed by the County Council, it is expected that the cost of redundancy would be met by the Council.

This proposal does not represent a cut in OCC funding for education. Although a merged school would receive less funding than the existing two separate schools, the element that would not be paid to Elms Road in the event of its closure would be "recycled" across the OCC school sector on such basis as agreed by the Schools Forum.

The presumption against closure of nursery schools is only a recommendation and not a requirement in legislation.

While legally closing the nursery school, the combined school would continue to offer the same level of service at the same location. Specialist early years staff would be retained by the merged school, and we are committed to ensuring the high standard of education at Elms Road is maintained, as well as the rapidly improving standards at Botley Primary School.

Responses to the first consultation were considered carefully in making the decision to proceed to statutory notices.

15. Effect on primary school:

- Primary school's progress will be harmed by having to take on wider responsibilities.
- Poor existing communication between primary school leadership and F1 staff.

The governing body of BPS is confident that it can maintain and enhance the quality of education for all pupils, and operate more efficiently as one school. Botley Primary School has recently appointed a Business Manager to take responsibility for Premises Management, Health & Safety etc. so that the Headteacher can focus on teaching & learning. Management posts for the children's centre and the Foundation Stage would be created. Merger would reduce the time spent on day to day issues of the shared site rather than the strategic role and a focus on teaching and learning.

Merger will remove the barriers to communication between school staff.

Ofsted (2009) considers that BPS has a "good capacity for further improvement". OCC will continue to support the school, and will not allow the focus to be taken away from continued improvement.

16. Children's Centre:

- Impact on the Children Centre – merged school would not have sufficient management capacity to main current standard of service; will harm integration between foundation stage teaching and childcare services.

It is very likely, but not a foregone conclusion, that the governance of the Children's Centre will move to the school governing body. There are many other children's centres which are part of a primary school. There are different models of management but usually the school head is also the children's centre head, and the operational management is carried out by either a Centre Manager or an Extended Services Coordinator (ESC).

Without wishing to presume that the merger will go ahead, the Governors and Headteacher of Botley Primary School have discussed the future management of the Children's Centre, and had initial discussions with the county council Children's Centre team. The expectation is that the Centre Manager or ESC would have a seat on the School's Senior Leadership Team so that the entire management of the site is meeting regularly. Overall responsibility would lie with the Headteacher. Parental and Partner involvement in the Advisory Group is a requirement of funding and inspected by Ofsted. There would continue to be an Advisory Group and parental involvement as at present.

17. Solution excessive/other solutions preferred:

- Improvements are already being made – merger is unnecessary.
- Prefer solution of ERNS having F1 children on its school roll until the term they are five to preserve school numbers and boost funding.
- Prefer solution of F1 being solely under the Botley Primary School day to day management, with the use of a dedicated part of the Nursery building which has the required equipment for Early Years provision.
- Federation should be further pursued.
- Allow all F1 children to be taught within Botley Primary School by investing in suitable indoor and outdoor space.

The Governors of Botley Primary School believe they have explored every avenue open to them both formally and informally, which would allow both school to operate independently, but the key issue of accountability has not been resolved. There are long-standing difficulties in coordination between the two schools and, although there have been improvements, they have diverted time and energy from the management of teaching and learning.

Federation of two schools must be led by the governors, and despite lengthy discussions it did not prove possible to find a federation model which was acceptable to both sets of governors.

Moving F1 children to be solely under the responsibility of either Elms Road Nursery or Botley Primary School would, if anything, increase the need for greater liaison between the two schools to ensure a complete understanding of each child's strengths and needs as they progress from the Foundation Stage into Key Stage 1. It would be against the spirit of continuity of teaching to unpick the Early Years Foundation Stage provision in this way, and we do not believe that this would benefit their education. This would also further reduce the flexibility with which the accommodation can be used.

The full comments made are available to Cabinet Members as a background paper.

18. Media coverage: The proposal was featured in the Oxford Mail on 4 February 2011: "Parents urged to fight merger plan." The local free newspaper in Botley stated that Elms Road Nursery School had been issued with a notice of closure, without making it clear that this would only happen if the school was merged with Botley Primary School. Concern was raised that public references such as these to the closure of the nursery school may have been misleading. A video of the nursery school was posted on YouTube.

Next Steps

19. If Cabinet agrees to the closure of Elms Road Nursery School and the extension of age range at Botley Primary School, this will take effect from 1 September 2011.

Financial and Staff Implications

20. As a result of merger, there would be a reduction in funding to the combined school from the Dedicated Schools grant compared to the sum of funding to the two separate schools, as some funding is calculated on a fixed cost per-establishment basis rather than per child. In isolation from other funding changes, this is estimated to be £64,000 per year, although in the first year this would be partly compensated for by an amalgamated school allocation of £53,750. Whether or not the schools merge, the introduction of the Early Years Single Funding Formula (EYSFF) from April 2011 is expected to reduce the funding to Elms Road Nursery School (or to Botley Primary School if the merger goes ahead) by an estimated £32,000.
21. Closure of Elms Road Nursery School would mean that there would be a reduction in the requirement for one Headteacher. Other posts at Elms Road Nursery School and the Children's Centre would transfer to the merged school. Normally, the cost of a redundancy from a school that is in an agreed deficit budget position is currently met from a local authority budget; otherwise the cost is met from the school. However, because this closure and amalgamation is being proposed by the County Council, the cost of redundancy would be met by the Council.

22. There are no capital costs associated with this proposal.

Equality and Inclusion Implications

23. 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.

Legal Background

24. Mergers/amalgamations of schools can be done by publishing proposals to close one school and proposals to change the age range of an existing school to accommodate the displaced pupils. Such proposals are subject to statutory procedures, as established by The Education and Inspections Act 2006 (EIA 2006), The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 (as amended) and The School Organisation (Establishment and Discontinuance of Schools)(England) Regulations 2007 (as amended).
25. Local authorities also have a duty to have regard to statutory guidance, in this particular case '*Closing a Mainstream School: A guide for Local Authorities*' and '*Making Changes to a Maintained Mainstream School (Other than Expansion)*', ("the Guidance").

Stage 4 – Decision

26. The Guidance states there are 4 key issues which the decision maker should consider before judging the respective factors and merits of the proposals:
- (a) Is any information missing?
 - (b) Has the statutory consultation been carried out prior to publication of the notice?
 - (c) Does the published notice comply with statutory requirements?
 - (d) Are the proposals "related" to other published proposals.

Consultation

27. The regulations do not prescribe how statutory consultation is carried out. Details of the stage 1 consultation carried out prior to the publication of the notice are included in the proposal (Annex 3), and the results were summarised in the report to Cabinet 21 December 2010 (Annex 1). On 7 January 2011 the statutory notice (Annex 2) was published on the OCC website and in the Oxford Mail, and displayed at the entrances to Elms Road Nursery School and Botley Primary School and in the local library. The representation period lasted the statutory 6 weeks until 18 February 2011.
28. Statutory consultation was therefore carried out in accordance with the recommended time limits and prior to publication of the statutory notice.
29. If some parties submit objections on the basis that consultation was not adequate, the Cabinet may wish to take legal advice on the points raised. If the requirements have not been met, the Cabinet may judge the proposal to be invalid and should consider whether they can make a decision on the proposal. Alternatively the Cabinet may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposal as a whole.

Publication of Statutory Notice

30. As stated above, the statutory notice (attached as Annex 2) and statutory proposal (attached as Annex 3) were published on 7 January 2011 with a 6 week period allowed for representations which closed on the 18 February 2011.
31. The Cabinet should consider whether the notice complies with the statutory requirements as set out in the regulations. The notice was sent to the School Organisation and Competitions Unit at the Department for Education for checking, and confirmed as compliant (with some minor amendments) on 22 December 2010.

Related notices

32. The proposals to close Elms Road Nursery School and extend the age range of Botley Primary School are interdependent, and have been published as a single notice.

Views of interested parties

33. The Cabinet should consider the views of all those affected by the proposals or who have an interest in them. This includes statutory objections and comments submitted during the representation period. These are summarised in paragraphs 7 and 8, and contained in full in the annexes and background papers. The Cabinet should not simply take account of the numbers of people expressing a particular view when considering representations made on the proposal. Instead the Cabinet should give the greatest weight to representations from those stakeholders most directly affected by the proposal.
34. In addition to the 4 key issues referred to above, the Guidance on considering proposals for school closures sets out a list of factors to be considered by decision makers, which should not be taken to be exhaustive. A summary of the factors is:
 - (a) **The effect on standards, school improvement and diversity.** The government's stated aim is to create a dynamic system shaped by parents that delivers excellence and equality, closing weak schools and encouraging new providers and popular schools to expand. The Cabinet should be satisfied that the proposal will contribute to raising local standards of provision and attainment and consider the impact on choice and diversity. It should pay particular attention to the effect on groups that tend to under-perform including children from certain ethnic minorities, children from deprived background and children in care. The Cabinet should also consider how the proposal will help deliver the 'Every Child Matters' principles. In this instance, early years provision will continue to be provided through the merged school, and it is argued that the merger would make it easier to share the good practice from each of the existing schools, and help staff work as one team across

the whole age range, providing the best care and education for children. It would make it easier for the school to build and maintain relations with parents from the start, and throughout, their early and primary education.

- (b) **The need for places.** The Cabinet should be satisfied that there is sufficient capacity to accommodate displaced pupils in the area. As in this proposal nursery provision will continue on the same site at the merged school, pupils will not be displaced.
- (c) **Impact on the community and travel.** In considering proposal for the closure of schools, the effect on families and the community should be considered. Community cohesion, race equality, accessibility and equal opportunities issues should be considered. As in this proposal nursery provision will continue on the same site at the merged school, there will be no negative effects on the local community.
- (d) **Special Educational Needs provision.** The proposals do not change provision for special educational needs.
- (e) **Specific age provision.** There should be a presumption against the closure of a nursery school unless the case for closure can demonstrate:
 - (i) *the LA is consistently funding numbers of empty places;*
 - (ii) *full consideration as 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;*
 - (iii) *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*
 - (iv) *replacement provision is more accessible and more convenient for local parents."*

Case for Closure

35. The presumption against closure of nursery schools is only a recommendation and not a requirement in legislation. With respect to (i) above, the number of empty places funded at Elms Road Nursery School over the last three years has naturally fluctuated during the course of each year as shown below, with an average of 48% surplus in the autumn term, 31% surplus in the spring term and 22% surplus in the summer term. These surplus places are currently funded, but the introduction of the Early Years Single Funding Formula will remove the funding for surplus places.

CA8

	Oct 2007	Jan 2008	May 2008	Oct 2008	Jan 2009	May 2009	Oct 2009	Jan 2010	May 2010	Oct 2010	Jan 2011
Surplus places & %	39 49%	29 36%	20 25%	42 53%	30 38%	22 28%	36 45%	20 25%	10 13%	37 46%	21 26%

36. With respect to ii) above, the Nursery School already incorporates a Children’s Centre.
37. With respect to iii), this proposal, while legally closing the nursery school, would continue to offer the same quantity of provision at the same location. It is acknowledged that Elms Road Nursery School currently offers a high standard of provision, judged “outstanding” in its 2010 Ofsted, but the authority believes that this quality can be maintained after merger. Specialist early years staff will be retained, and all staff will work together to support shared objectives for improvement. Merger will allow a more cohesive curriculum offer across the whole age range, and will facilitate the sharing of expertise and best practice among staff. Transition between the Foundation Stage and Key Stage 1 will be smoother, and pupils’ progress will be more easily tracked. Relationships with parents will be more easily developed across the age range. The site and resources will be able to be used more flexibly. Leadership and management time can be more focused on improving teaching and learning for all ages rather than on the current complexities of coordination across two establishments. By strengthening and simplifying links between nursery and primary provision, the local authority believes that the quality of education provided across the age range will be enhanced. This belief is shared by the staff and governors of Botley Primary School, but challenged by staff and governors at Elms Road Nursery School.
38. With respect to (iv) above, replacement provision will be on the same site.

Decision

39. In considering the proposals for a school closure and extension of age range, Cabinet 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

40. The Cabinet is **RECOMMENDED** to:
- (a) **consider the representations made in response to the statutory closure notice with particular reference to the issues detailed in paragraphs 12-23 and the Statutory Guidance; and**
 - (b) **approve the closure of Elms Road Nursery School with effect from midnight, 31 August 2011, AND the extension of age range at Botley Primary School with effect from 1 September 2011.**

MEERA SPILLETT

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Annexes:

- Annex 1: Cabinet report 21 December 2010
- Annex 2: Statutory notice
- Annex 3: Statutory proposals
- Annex 4: Formal response Elms Road Nursery School governors
- Annex 5: Formal response Botley Primary School governors
- Annex 6: Letter from Headteacher Elms Road Nursery School
- Annex 7: Letter from Headteacher Botley Primary School
- Annex 8: Letter from Botley Primary School staff
- Annex 9: Leaflet from Elms Road parents group

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February 2011