

## CABINET – 21 DECEMBER 2010

### PROPOSAL TO MERGE BOTLEY PRIMARY SCHOOL AND ELMS ROAD NURSERY SCHOOL & CHILDREN'S CENTRE

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.
  - The Children's Centre provides a wide range of services which are used by over 200 families a year, from Botley, West Oxford, Cumnor, Farmoor, Appleton, North Hinksey and Wytham. The Children's Centre is currently led and governed by Elms Road Nursery school
  - Elms Road Nursery School offers 40 morning and 40 afternoon places, and so can accommodate 80 children on a part-time basis. The Nursery School also offers wrap-around daycare for families wishing to extend their part-time sessions.
  - Botley Primary School has a published admission number of 45, but for September 2010 offered 60 Reception (F1) places (of which 51 are currently taken) in response to pressure on primary school places within Oxford.
2. 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.
3. An Ofsted inspection of Botley Primary School in June 2009 found that the way that reception teaching is organised *"adds an unnecessary layer of complication to management and governance. A great deal of time and effort is spent to bring about close cooperation. There is a liaison committee consisting of two members, including the chair, from each governing body and the two headteachers. However, despite these efforts, lines of accountability are not sufficiently clear."*
4. The introduction in April 2011 of the Early Years Single Funding Formula, which funds eligible children (over-3s) attending rather than (as now) the number of places provided, is expected to reduce the budget of Elms Road Nursery School. This is 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.

5. There are five statutory stages for a proposal to close a maintained nursery school:
  - (i) consultation;
  - (ii) publication of a statutory notice;
  - (iii) representation;
  - (iv) decision;
  - (v) implementation.
6. This proposal has completed the first consultation stage, and a decision is now sought whether to proceed to publication of a statutory notice and representation.

### **The Proposal**

7. The proposal is to merge Botley Primary School with Elms Road Nursery School & Children's Centre into a single school and children's centre under one headteacher and a single governing body, and with a new name. The legal mechanism to achieve this is to formally close Elms Road Nursery School, and extend the age range of Botley Primary School to include 3 year olds. The name of the merged school would then be chosen by a unanimous vote of the full governing body.
8. There would be no reduction in the Children's Centre services offered as a result for these proposals. The intention is for responsibility for the Children's Centre to be transferred to the combined school.

### **Consultation**

9. During the eight week consultation phase (24 May – 19 July 2010) an open meeting was held for parents, governors and the local community to discuss the plans with county council officers and members. Further meetings were held with the headteachers and governors of both schools to discuss the implications of merger. County council officers organised and attended a separate meeting for Children's Centre users. Elms Road Nursery School also held its own meeting for parents.
10. A consultation document leaflet (Annex 2) was sent by both schools to parents of the children currently attending, and was distributed by the Children's Centre to its users. Consultation leaflets were sent to local county and district councillors and the local MP; other primary schools and early years providers in the area; the partnership secondary school (Matthew Arnold School); other Children's Centres in Oxford; other maintained nursery schools in the county; the local library; the Catholic and Anglican dioceses; and other interested parties as represented on the OCC School Organisation Stakeholder Group. The consultation information was also available on the OCC website.

## Consultation Responses

11. Staff and governors at Botley Primary School strongly support the proposal, arguing that it will improve the quality of education for children and provide more clarity for parents. Staff time would be freed up from administration and management of two separate establishments to concentrate instead on teaching and learning. Simpler lines of management and accountability could be established, particularly benefitting the teaching of Reception (F1) children. Merger would allow more flexible use of both funding and facilities, making it easier to respond to future funding pressures or changes in pupil numbers.
12. Staff and governors at Elms Road Nursery School & Children's Centre strongly oppose the proposals, arguing that the quality of early years education would be compromised. They emphasise the specialised nature of early years education and the high level of skill and experience of the current nursery school staff, including the headteacher. Governors have also rigorously questioned the financial basis for the proposal, arguing that:
  - The cost of replacing the functions currently carried out by the ERNSCC headteacher has been misleadingly expressed, and that there is limited scope for reductions in costs, and/or a danger that there will need to be additional job losses in order to achieve the stated savings, which would harm the quality of early years care and education.
  - The number of early years children in the area is forecast to rise, which will lessen the impact of the Single Funding Formula.
13. 105 written responses were received. Of these, 31% were from parents/users/staff/governors currently connected to Elms Road Nursery School & Children's Centre; 28% were from parents/staff/governors currently connected to Botley Primary School; 18% were from parents/users/staff/governors currently connected to both schools; 23% were from respondents with no current direct connection to either school. This last group included local residents and respondents connected to other nursery schools across the city.
14. In total, 31% of respondents agreed with the proposal. Reasons given were:
  - Managerial and cost savings (19% of responses) – including more efficient management structure; better communications and sharing of good practice among staff; more flexible and efficient use of staff, site and facilities.
  - Benefits to children and parents (19% of responses) – including easier transition to school; clarity for parents; a greater sense of belonging for Foundation children.

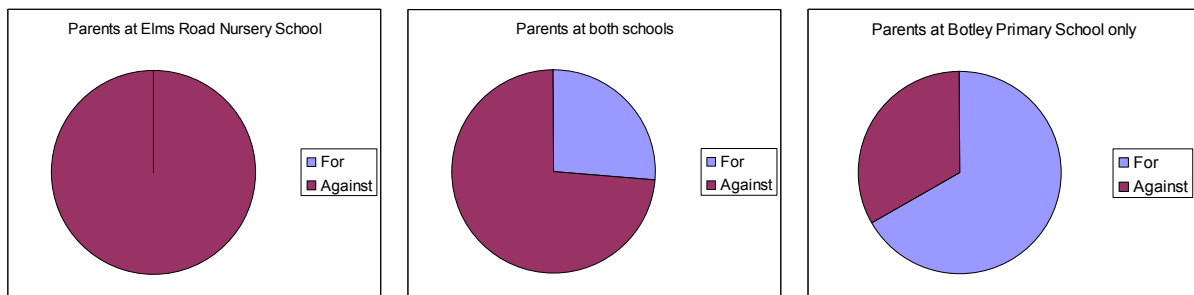
68% of respondents disagreed with the proposal. Reasons given were:

  - Negative impact on children and parents (51% of responses), including: loss, or downgrading, of Children's Centre services (21%); loss of specialist early years staff skills (21%); better Ofsted rating for ERNSCC than BPS; that nursery schools provide a better quality of care and

education for young children; that nursery children within a school would suffer from larger class sizes and/or more formal teaching styles than they currently receive; that merger would put more challenges in the way of Botley Primary School continuing to improve; and a perceived reduction in choice of nurseries for parents who intended their child to then attend a primary school other than BPS.

- Managerial and costs effects (39% of responses), including: benefits of having a separate headteacher for the nursery and Children's Centre (25%); limited scope for savings to be made; that the financial position of the two schools does not justify merger; and concerns about job losses.
- Solution offered is disproportionate to the problem, or other solutions are preferable (30% of responses), including: further separation of the two schools so that either reception children could be the responsibility of ERNSCC or reception children could be taught entirely within BPS; ERNSCC could take more fee paying children; or better support should be provided to improve management and communications between the two schools.

15. Annex 1 sets out OCC's responses to these concerns, and will be available on the OCC Consultation website as part of the feedback on this consultation.
16. There were significant differences in opinion between different subgroups of respondents, depending on the nature of their involvement with either school. The views of staff and governors are outlined above. Among current parents, those with children only at the nursery school (10) all opposed the proposal; of those with children at both schools (19) 74% opposed the proposal and 26% supported it; of those with children only at the primary school (13) 31% opposed the proposal and 62% supported it (with one mixed response).



17. At the public meeting held on 23 June, parents voiced their appreciation for the Children's' Centre, Elms Road Nursery School, and Botley Primary School. Issues discussed included:
  - The implications of a merger for the Children's Centre budget; the importance of giving due consideration to the management of the Children's Centre in any changes.
  - Likely changes in staff, if the schools merge.
  - Possible future growth in the local population.
  - How would the merger save money?
  - Waste of management time under current arrangement; impact on F1 children of lack of coordination between ERNSCC and BPS.

- Recent improvements in Botley Primary School. Importance of securing further improvements.
  - Importance of Children's Centre to local community.
  - Excellent provision by Elms Road Nursery School.
  - Would the same number of nursery places be provided?
  - Future management of early years education if the schools merged.
  - How will the school be supported through the transition process by OCC?
  - Benefits to young children of being in a setting totally focussed on early education.
  - Will the needs of young children be given as much prominence within a merged school and management structure? Will funding and resources for early years be protected in a merged budget?
  - Importance of transition from early education to primary school, and how that is helped by merger.
18. A petition was received with 249 signatures against the closure of Elms Road Nursery School. This was organised by the headteachers of the other maintained nursery schools in Oxfordshire. This petition did not put the closure into the context of an equivalent amount of nursery places continuing to be provided within the merged school.
19. Since the consultation period, further discussions have been held with, and within, the governing bodies of both schools to explore whether federation offered a better solution. It did not prove possible to identify a model of federation which both schools could agree would provide a sustainable governance structure, and on 24<sup>th</sup> November, the governors of Botley Primary School decided instead to support the merger proposal.
20. It is recognised that any consultation into possible changes to governance create uncertainties for the schools involved. The efforts of the headteachers and governing bodies of both schools during the process are much appreciated. Throughout, headteachers and governors have striven to ensure that the interests of children and their families have been at the centre of discussions and feature prominently in decision-making.

## **Governance**

21. The Governance structure of a merged school is directed by School Governance Regulations. The maximum size for a governing body is 20 members and therefore the new governing body could not accommodate all the governors from both schools (although there could be Associate Members on the governing body). If the proposal to merge the schools goes ahead, the governing body of Elms Road Nursery School would cease to exist and its responsibilities initially taken on by Botley Primary School. The governing body could then agree a new Instrument of Government enlarging 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.

22. Budget and staffing decisions for the merged school would be the responsibility of the governing body. Any change in name for the merged school would be by unanimous vote of the whole governing body.

### **Legal Implications**

23. As this is a proposal to close one school and extend the age range of another, it is 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 by The School Organisation and Governance (Amendments)(England) Regulations 2007 which came into force on 21 January 2008).
24. Section 16 of the Education & Inspections Act 2006 establishes the consultation procedures for statutory proposals, and 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' ("the Guidance"). The period of consultation is not prescribed by legislation, although the Guidance recommends a minimum of 6 weeks. The consultation period was in line with the Guidance having run from 24<sup>th</sup> May until 19<sup>th</sup> July, thereby exceeding the six week requirement. The Guidance also lists interested parties who 'should' be consulted. (The word 'should' means it is a recommendation rather than a requirement in legislation.) This consultation met these recommendations.
25. The 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."*
26. With respect to (a) 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, 33% 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.

	<b>Oct 2007</b>	<b>Jan 2008</b>	<b>May 2008</b>	<b>Oct 2008</b>	<b>Jan 2009</b>	<b>May 2009</b>	<b>Oct 2009</b>	<b>Jan 2010</b>	<b>May 2010</b>	<b>Oct 2010</b>
Surplus places	49%	36%	25%	53%	38%	28%	45%	25%	13%	46%

27. With respect to (b) above, the Nursery School already incorporates a Children's Centre.
28. With respect to (c) and (d) above, this proposal, while legally closing the nursery school, would continue to offer the same level of service at the same location, and therefore will not reduce provision. 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.
29. Section 5D of the Childcare Act 2006 places a duty on local authorities to consult with the local community before making significant changes to Children's Centre provision. As Elms Road Nursery School incorporates a Children's Centre, this duty is relevant in this case. However, as there are not proposed to be any changes in services offered or in the location of the Children's Centre; the only change will be one of management. A meeting was held at the Children's Centre to allow users to discuss the proposal.

### **Equality and Inclusion Implications**

30. 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.

### **Financial and Staff Implications**

31. At this stage a decision is sought on whether to publish statutory proposals, and so there are no financial or staff implications arising directly from this report. If the proposal proceeds, following statutory consultation there would be another report to Cabinet in due course seeking a final decision on whether to merge the schools.
32. 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.

33. Currently, the cost of any school redundancy is met from a local authority budget. However, it is clearly a Schools cost within the terms of the School Finance regulations as the saving will fall to the Schools Budget; therefore the redundancy cost should be met from the Schools Budget. Approval will be sought from the Schools Forum in January to create such a budget from the Dedicated Schools Grant.
34. There are no capital costs associated with this proposal.

### **Making a Decision**

35. A decision is now required as to whether to publish formal proposals for the closure of Elms Road Nursery School and the extension of age range at Botley Primary School. If approved, a linked statutory notice would be published, followed by a formal representation period of six weeks. The decision-making power in terms of determining the notice will lie with the Cabinet, and a report will be put to the Cabinet Member for Schools Improvement if no representations are received, or to Cabinet if representations are received, for a final decision in due course.
36. As objections in relation to the proposal have been received, the decision on whether to publish a formal statutory proposal is referred to the Cabinet rather than the Cabinet Member for Schools Improvement.
37. The Cabinet must be satisfied that the statutory consultation has been carried out prior to the publication of the notice.

### **RECOMMENDATIONS**

38. **The Cabinet is RECOMMENDED to either:**
  - (a) **approve the publication of linked statutory notices for closure of Elms Road Nursery School and for the extension of age range at Botley Primary School to 3-11; and**
  - (b) **reject the publication of linked statutory notices for closure of Elms Road Nursery School and for the extension of age range at Botley Primary School to 3-11.**

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Background Papers: Nil

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### Concerns raised during consultation, and OCC response

Percentages shown are of written responses to the consultation, where a concern was mentioned in more than 20% of responses. Similar concerns may also have been raised during the public meeting.

Concern raised	OCC response
<b>Negative impact on children and parents (51% of responses), including:</b>	
Loss, or downgrading, of Children's Centre services (21%).	Children Centres services will continue as now. Governance of the Children's centre will be subject to further consultation, but it is currently intended that it will be managed by the combined school instead of the Nursery School.
Loss of specialist early years staff skills (21%).	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.
Better Ofsted rating for ERNSCC than BPS.	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. At its last Ofsted inspection in 2010, Elms Road Nursery School was rated as "outstanding".
Nursery schools provide a better quality of care and education for young children.	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.
Nursery children within a school would suffer from larger class sizes and/or more formal teaching styles than they currently receive.	There will be a continuing commitment to the principles and good practice within the Early Years Foundation Stage and meeting the needs of youngest children.

Merger would put more challenges in the way of Botley Primary School continuing to improve.	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. Merger will free up the management time and effort currently spent on coordination between the schools.
A perceived reduction in choice of nurseries for parents who intended their child to move on to attend a primary school other than BPS.	There are no plans to change the admissions criteria for Botley Primary School. Parents would still need to apply to the primary school of their choice for when their child enters the Reception (F1) class, whether or not they already have a place in the nursery class.
<b>Managerial and cost effects (39% of responses), including:</b>	
Benefits of having a separate headteacher for the Nursery and Children's Centre (25%).	The combined school would be expected to create a new senior management post responsible for early years education, and other management changes such as a school business manager are planned, to allow the headteacher to focus on teaching and learning.
Limited scope for savings to be made, given that other management posts will be needed to replace the nursery school headteacher.	The total saving in staff costs will depend on decisions the combined school's governing body make, and therefore cannot be quantified at this stage. However, the merger would give the combined school more flexibility in how to spend its budget, as any savings in staff costs would be kept by the school.
The financial position of the two schools does not justify merger.	The main reason for the merger is to improve the management and coordination of teaching and learning across the whole age range. However, the new funding formula to be introduced next year will introduce new funding challenges, and a merged budget will provide more flexibility.
Growth in the local population will increase the nursery school's intake, and hence make the concerns about funding loss invalid.	Forecast numbers are uncertain, as is the timescale for construction of significant new housing.
Concerns about job losses.	Apart from changes to the management structure, other posts are not under threat.

<b>Solution offered is disproportionate to the problem, or other solutions are preferable (30% of responses), including:</b>	
Further separation of the two schools so that either reception children could be the responsibility of ERNSCC or reception children could be taught entirely within BPS.	It would be against the spirit of continuity of teaching to unpick the Early Years Foundation Stage provision in this way and, if anything, increase the need for greater liaison between the two schools to ensure a complete understanding of each child's strengths and needs. Accommodation currently in Botley Primary School does not provide the range of specialist indoor and outdoor early years facilities available in the Nursery School, and would require significant investment in order to comply with Early Years Foundation Stage guidelines.
ERNSCC could take more fee paying children.	ERNSCC does not currently fill all its available places, which suggests that there is insufficient demand for paid places.
Better support should be provided to improve management and communications between the two schools.	Although much work has been done to improve management and communication, a great deal of time and effort is still spent to bring about close cooperation, and merger would free up this time and effort to focus on teaching and learning across the whole age range.