

**CABINET MEMBER FOR EDUCATION & CULTURAL SERVICES - 10  
JULY 2019**

**REPORT ON THE PROPOSED CHANGE OF AGE RANGE FOR  
VALLEY ROAD PRIMARY SCHOOL**

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

**RECOMMENDATION**

The Cabinet Member for Education & Cultural Services is **RECOMMENDED** to approve the change of age range of Valley Road Primary School from 3-11 to 4-11 from September 2019 with the following conditions:

- That the school and the nursery can reach a mutually agreeable level of rent and other costs to ensure the current free entitlements, including the extended thirty hours offer run by the school for parents, can be maintained or extended.
- That the current timings for the funded entitlements be maintained for at least 12 months from 1 September 2019, so as not to be disruptive to parents whose child already attends the nursery or is registered from September 2019.
- That a suitable lease is drawn up to guarantee the continued provision of free nursery places longer term.
- That existing arrangements for integrated provision with Bishopswood (Special) School are maintained.

**Executive Summary**

1. The proposal is to change the age range of Valley Road Primary School from 3-11 to 4-11 from September 2019, with all early years provision consolidated under the private childcare provider, Cygnets of Henley Ltd., which already operates on the school site.
2. This change would increase the flexibility of childcare provision and improve the school's budget position.
3. The change requires a statutory consultation and decision-making process.
4. A statutory notice has been published, and the required representation period has ended. There have been no objections to the proposed change of age range.

## Introduction

5. This report follows the publication of a Statutory Proposal/Notice (Stage 1) and a Representation (Stage 2 formal consultation) period relating to the county council's 'prescribed alteration' proposal to change the age range of Valley Road Primary School. The proposal is made with the support of the school's Governing Body. The Cabinet Member is now required to make a decision on the proposals in accordance with the statutory prescribed alteration procedures.
6. Although there is no longer a statutory 'pre-publication' consultation period for prescribed alteration changes, there is a strong expectation that schools and local authorities will consult interested parties in developing their proposal prior to publication, to take into account all relevant considerations. In accordance with this expectation, the school ran a 2-week informal consultation from the 26<sup>th</sup> April to the 10<sup>th</sup> May. There were 3 responses; 2 of which were in support of the proposal and 1 of which raised concerns relating to continued access to the free nursery offer. The concern centred around a possible change in hours for the funded entitlements from the current 9am until 3pm. This is a free entitlement. If new hours were from 8am until 4pm as an example, then parents would have no choice but to pay for the additional two hours. This is addressed in the recommendations above.
7. Take up of nursery class places at Valley Road has been variable, with the nursery not reaching full capacity at any point in the 2017/18 academic year. Council sufficiency data however indicates a shortfall in funded provision for funded three and four year olds in Henley. A school survey in 2018 highlighted that a key reason for not choosing the school nursery class was the need for childcare covering the full school day. The Council would like to retain the same level of early years provision and the integrated places offered by Bishopswood Special School. The proposal would support this ongoing provision and extend the flexibility of the childcare offer to the community.

## The Proposal

8. The statutory proposal (Annex 1) was published in the Henley Standard on 17 May 2019 and was also posted on the county council website. The Representation period ran until the 14 June 2019, which is the statutory 4-week period required under the relevant legislation. The statutory notice was accompanied by a Full Proposal document (Annex 2), which was available to read online at the Oxfordshire County Council public website, or by request.
9. The proposal is to change the age range of Valley Road Primary School from 3-11 to 4-11 from September 2019, with all early years provision consolidated under the private childcare provider, Cygnets of Henley Ltd., which already operates on the school site.

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10. The current school nursery is not financially viable when not full and has an adverse effect on the school budget. The proposed alteration would:
  - Consolidate all on site early years and childcare provision under the management of Cygnets of Henley – judged ‘Outstanding’ at their last Ofsted inspection.
  - Retain the same overall number of funded early education places.
  - Retain the Integrated Nursery arrangements with Bishopswood Special School.
  - Extend access to ‘wrap-around’ childcare, supporting working families.
  - May improve the school budget position.
11. The Governing Body of Valley Road Primary School supports the proposed change of age range.

### **Representations**

12. 1 response was received during the 4-week statutory Representation period. This response was in support of the proposal but emphasised the importance of maintaining the same level of early years provision at Valley Road for children with SEND. This is in reference to 8 full time nursery places offered by Bishopswood School in the integrated nursery. This is addressed in the recommendations above.

### **Legal Background**

13. The Childcare Act 2006 places a duty on English local authorities to secure early years provision free of charge (Section 7 (as substituted by section 1 of the Education Act 2011)) and also to secure sufficient childcare for working parents (Section 6).
14. The Childcare Act 2016 (Section 1) places a duty on the Secretary of State to secure the equivalent of 30 hours of free childcare over 38 weeks of the year for qualifying children.
15. The proposal seeks to secure the ongoing viability of the childcare offer at the Valley Road site which otherwise could be lost and affect the sufficiency of early years places in the locality.
16. Change of school age ranges is covered by *The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013* (“the Prescribed Alterations Regulations”) which should be read in conjunction with Parts 2 and 3 and Schedule 3 of the *Education and Inspections Act (EIA) 2006* (as amended by the *Education Act (EA) 2011*) and the *Prescribed Alterations Regulations*.
17. A change of age range at a maintained school is subject to the “*Guidance*”, as set out in “*Making Significant Changes (‘Prescribed Alterations’) to maintained schools*” published October 2018. This Guidance is for proposers and

decision-makers. The Guidance states that the statutory proposal must contain sufficient information for interested parties to make a decision on whether to support or challenge the proposed change. The proposal should be accessible to all interested parties and should therefore use 'plain English'. The full proposal must be published on a website (e.g. the school or LA's website) along with a statement setting out:

- (a) how copies of the proposal may be obtained;
- (b) that anybody can object to, or comment on, the proposal;
- (c) the date that the representation period ends;
- (d) and the address to which objections or comments should be submitted.

A brief notice (including details on how the full proposal can be accessed e.g. the website address) must be published in a local newspaper. Within one week of the date of publication on the website, the proposer must send a copy of the proposal and the information set out in the paragraph above to the governing body and any other body or person that the proposer thinks are appropriate.

18. The representation period must last for four weeks from the date of the publication. During this period, any person or organisation can submit comments on the proposal to the LA to be taken into account by the decision-maker. It is also good practice for representations to be forwarded to the proposer to ensure that they are aware of local opinion.
19. The county council confirms that it has adhered to the above Guidance.

### **Decision-making**

20. The decision-making power in terms of determining the proposal in this case lies with the Cabinet Member for Education & Cultural Services. In considering the proposals for a school expansion, the Cabinet Member can decide to:
  - reject the proposals;
  - approve the proposals without modifications;
  - approve the proposals with such modifications as the local authority thinks desirable, having consulted the governing body;
  - approve the proposal – with or without modification – subject to certain conditions (such as the granting of planning permission) being met.
21. Where a LA is the decision maker, it must make a decision within a period of two months of the end of the representation period. Where a decision is not made within this time frame, the LA must refer the proposal to the Schools Adjudicator for a decision.
22. The *Guidance* states that “decision-makers will need to be satisfied that the appropriate fair and open local consultation and/or representation period has been carried out and that the proposer has given full consideration to all the responses received. Decision-makers should not simply take account of the

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numbers of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most affected by a proposal – especially parents of children at the affected school(s)”.

23. The *Guidance* sets out the following factors which should be considered in deciding this proposal.
24. **Education standards and diversity of provision:** Decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents; raise local standards and narrow attainment gaps.
25. Cygnets is an Ofsted ‘Outstanding’ Early Years provider. Existing strong links with the school will continue. The proposal will increase flexibility of the childcare offer for parents.
26. **Equal opportunities issues:** The decision-maker must comply with the Public Sector Equality Duty (PSED), which requires them to have “due regard” to the need to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it. The characteristics that are protected in relation to the Public Sector Equality Duty are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.
27. There will be no loss in the overall number of nursery places offered on the school site. Those parents requiring only the free entitlement will continue to have equal access to this provision. A memorandum of understanding will be developed with the provider to formalise the arrangements for integration of special nursery provision.
28. **Community cohesion:** When considering a proposal, the decision-maker should consider its impact on community cohesion.
29. It is not considered that the proposal would have an impact on community cohesion.
30. **Travel and accessibility:** Decision-makers should satisfy themselves that accessibility planning has been properly considered and the proposed changes should not adversely impact on disadvantaged groups. The decision-maker should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes. A proposal should also be considered on the basis on how it will support and contribute to the LA’s duty to promote the use of sustainable travel.
31. The expanded childcare offer as a result of the change of age range may encourage more parents to access childcare provision closer to home, reducing travel distances to other providers.

32. **Funding:** The decision-maker should be satisfied that any necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement.
33. There are no additional capital costs as a result of the proposal. Legal fees for drawing up the lease will either be met from the school budget or by Cygnets.

### **Financial and Staff Implications**

34. There are no financial or staff implications for the County Council. Valley Road Primary School reports that the proposed change will provide greater stability for their budget, and the Council's assessment is that it should not have a negative impact.
35. The school have re-deployed nursery staff within the main school. There will be no TUPE implications.

### **Equalities Implications**

36. There are not considered to be any equalities implications for this proposal.

### **LUCY BUTLER**

Director for Children's Services

Annexes:                    Annex 1: Public Notice  
                                  Annex 2: Full Proposal Document

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