



Report to:	People Committee	Date:	6 December 2018
Report title:	Consultation on the Proposed Changes to the Registration of Spencer Nursery School		
Report from:	Nick Ireland, Strategic Director, People Services (interim)		
Ward/Areas affected:	Borough wide		
Chair of Committee/Lead Member:	Councillor Marian James		
Author(s)/Contact Number(s):	Laura Byrnes, Early Years Free Entitlement Manager - 020 8770 4929 Kieran Holliday, Head of Pupil Based Commissioning -0208 770 6553		
Corporate Plan Priorities:	<ul style="list-style-type: none"> ● Being Active ● Making Informed Choices ● Living Well Independently ● Keeping People Safe 		
Open/Exempt:	Open		
Signed:		Date:	21 November 2018

1. Summary

- 1.1 This report explains the rationale, background information and evaluation of the consultation that was undertaken with stakeholders between 1 October to 2 November 2018, relating to the proposal to make changes to the registration of Spencer Nursery.

2. Recommendations

The People Committee is recommended to:

- 2.1 Agree for the council to enter a period of formal representation on the proposal to make changes to Spencer Nursery and publish related statutory notices as follows:
- To formally close Spencer Nursery School as a maintained nursery school;
 - To change the age range of Hackbridge Primary School from 3 to 11 years to 2 to 11 years and to expand the school by 36 full time equivalent early years places to be provided on the Spencer Nursery Site.

- 2.2 Following a period of representations, for the proposal to be considered at the next People Committee (14 March 2019) where members will be asked to determine whether to implement the changes proposed (subject to any representations received).

3. Background

- 3.1 Spencer Nursery is a maintained nursery school that delivers high quality, flexible and all year round, early years education and childcare for children aged 3 - 5 years. Alongside the Maintained Nursery, Spencer Nursery also delivers all year round childcare on the same site for children aged 0 -2 years.
- 3.2 Spencer Nursery federated with Hackbridge Primary School in November 2016 and this has maintained their sustainability due to a shared leadership and governance structure. The federation has provided opportunities to share resources, knowledge and experience.
- 3.3 There are two main reasons for the proposal to change the registration of Spencer Nursery, (1) Hackbridge Primary School's desire to become part of an Academy Trust and (2) the uncertain future of Government funding for maintained nurseries.
- 3.4 Hackbridge Primary School, earlier this year, consulted on becoming an Academy as part of the Cirrus Primary Academy Trust. Governors determined to proceed with the proposal and an Academy Order has been made (the precursor to conversion). Throughout this process it became clear that under current legislation, maintained nurseries cannot be part of an Academy Trust and therefore the Academy order has not yet been implemented. Currently the only way for Hackbridge Primary School to become part of a Multi Academy Trust is to defederate from Spencer Nursery. Both the federation and the representatives from the Local Authority are of the view that this would significantly impact on the viability of Spencer Nursery as a stand alone provision. Governors and leaders at Hackbridge Primary, have indicated their strong preference to retain the existing relationship.
- 3.5 In recent years, maintained nursery funding has been subject to a number of budget cuts from Government. Most recently (2017), the Government's introduction of a new Early Years National Funding Formula (EYNFF) places a number of new requirements on how local authorities fund early years providers.
- 3.6 One of the EYNFF requirements is for local authorities to implement a universal base rate for all early years providers by 2019/20. A universal base rate (cost per pupil) represents a significant budget reduction for maintained nurseries (maintained nursery schools tend to have higher staffing costs related to the regulations they operate under). The Department for Education (DfE) has acknowledged this and made a commitment to provide additional funding for maintained nursery schools for the duration of this parliament (expected to be 2020.) Nevertheless, Government has not yet committed to funding them beyond this point. It is highly likely that if this funding is not provided, the nursery in its current form would need to close.
- 3.7 The proposal includes three related proposals that, if agreed, will be implemented simultaneously as follows:



- London Borough of Sutton (LBS) close the maintained nursery school (providing early years education for 3 and 4 year olds) at Spencer Nursery School.
- Increase the age range of Hackbridge Primary School from 3-11 years to 2-11 years and
- Enlarge the Hackbridge Primary School including expansion on to the Spencer Nursery site to provide early years education and childcare for 2-5 year olds as part of Hackbridge Primary School at the existing Spencer Nursery site.

3.8 Officers have worked closely with the Federation of Hackbridge and Spencer Nursery School on these proposals however as the proposals involve a community / maintained nursery school it is the Local Authority's responsibility to carry out a statutory consultation on the proposed changes to the provision including closure/changes in registration.

3.9 The Local Authority consulted with staff at Spencer Nursery School, parents of Spencer Nursery/Hackbridge Primary School and residents between 1 October to 2 November 2018. Officers, received feedback to the Spencer Nursery consultation document (appendix A) online via Sutton's Citizen Space. At a public meeting, held on 17 October 2018 at Spencer Nursery School, officers explained the proposal and invited feedback, comments and suggestions.

3.10 The expected benefits of the proposal will:

- Support a sustainable future for the provision of high quality childcare and education for local families.
- Spencer Nursery and Hackbridge Primary School will continue to benefit from (and develop) the shared resources, expertise and knowledge that supports the development and well being of young children.
- Align financial and administrative functions that will help toward reducing costs.
- Children continue to benefit from strong transitions, where parents choose Hackbridge Primary School for their child's primary education.
- Support the continuity of care for existing families
- Enable the continuation of the delivery at Spencer Nursery, which supports the council to meet the early years statutory duty to secure sufficient childcare places for working parents

3.11 The proposals set out in this report have been prepared in collaboration with Hackbridge Primary School who have fully scoped the potential efficiencies that demonstrate the longer term sustainability of the provision under these arrangements (rather than stand alone provisions).

3.12 Discussions with DfE colleagues in July 2018, have indicated their support for the proposal and the process required to implement the proposal. It should be noted that there is a presumption against the closure of nursery schools in statutory guidance. This does not mean that a nursery school will never close, but the case for closure should be strong and the proposal must demonstrate that there are plans to develop alternative provision that will be at least as equal in terms of the quality and quantity as the provision provided by the nursery school with no loss of expertise and specialism; and that replacement provision is more accessible and more convenient for local parents. Given that the proposal does not change the nature of the



provision that is currently being provided (only in effect the registration of the provision) officers are of the view that this presumption is met.

Consultation Feedback

- 3.13 The Local Authority received only two responses (appendix B) to the consultation, both were parents and both were in favour of the proposal. One respondent, although in favour of the proposal, noted that they do have some concerns regarding any changes to the delivery of childcare services at Spencer Nursery after the changes have taken place.
- 3.14 The consultation was widely published to all parents and staff related to Spencer Nursery as well as all parents at Hackbridge Primary School as part of the federation. The small response rate may indicate that parents and staff at Spencer Nursery do not have any significant concerns about the proposals.

4. Issues

- 4.1 A number of organisations (nationally) are lobbying Government to raise awareness of the value and impact maintained nurseries make for families and young children to encourage Government to commit to long term funding.
- 4.2 The final decision from Government on the future of maintained nursery funding has not yet been made, therefore it is possible that funding will be committed post 2020 but this future remains uncertain. With the reduced role of the Local Authority, schools are increasingly needing to join a Multi Academy Trust to ensure that they get the challenge and support that they need. Spencer Nursery provides outstanding early years education through the current arrangements. Defederation represents a significant risk in this regard and would place Spencer Nursery and its families in a vulnerable situation
- 4.3 If the proposal is accepted, this would allow Hackbridge Primary School to become part of the Cirrus Primary Academy Trust as per their existing academy order and to continue to run Spencer Nursery provision, using the existing expertise and staffing that the school currently enjoys. There are issues for any school in relation to converting to become an Academy but these issues are not considered in this report because although they form part of the rationale, they are distinct from the proposals covered in this report and have already been consulted on earlier in the year.

5. Options Considered

- 5.1 The impact of a de-federation between Hackbridge Primary School and Spencer Nursery, would mean that LBS would become responsible for the nursery provision which is not financially advantageous as it would involve recruiting a new Head Teacher and Special Educational Needs Coordinator (currently in place across the federation) which would significantly impact on the financial viability of Spencer Nursery in the future. This option is not favoured by officers or the Federation of Hackbridge Primary School and Spencer Nursery.



- 5.2 A further option is to keep the status quo - for Hackbridge Primary School and Spencer Nursery to remain maintained schools however this is not an option that Governors from across the Federation are happy with. An Academy Order is in place and the school is committed to becoming part of the Cirrus Primary Academy Trust. This proposal provides the route to enable that to happen and officers are of the view that in a sector where more and more schools convert to Academy status and the Local Authority continues to contract in size, this is a sensible approach for the school to take.

6. Impacts and Implications

Financial

- 6.1 In line with the Early Years National Funding Formula (EYNFF) and the need to implement a universal base funding rate for all early years providers by 2019/20, Sutton equalised their local early years funding rate in 2017/18 for all types of early years provider. However supplementary funding was made available by the DfE for maintained nursery schools, guaranteed until 2019/20, to enable local authorities to maintain their current level of of funding for the maintained nurseries. If the proposal is agreed to close Spencer Maintained Nursery School the supplementary funding associated with the nursery will cease and not be available to the new proposed provision at Hackbridge Primary School.
- 6.2 A requirement of the new EYNFF requires Local Authorities to only retain a maximum 5% of the Early Years allocation of the Dedication Schools Grant (DSG), so there is not scope within this budget to meet any shortfall in funding for maintained nurseries.
- 6.3 Spencer Nursery School will not be a viable option as a stand alone nursery, managed directly by the local authority. If required, LBS would be responsible for costs associated with the closing of the nursery school, inclusive of any redundancies.
- 6.4 If the maintained nursery school forms part of extended age range provision at Hackbridge Primary School it will allow the school to pursue academy status. If the school joins the Cirrus Academy Trust any financial risk will become the responsibility of the Trust.

Legal

- 6.5 The council has a duty under section 6 of the Childcare Act 2004 to secure, so far as is reasonably practicable, that the provision of childcare (whether or not by them) is sufficient to meet the requirements of working parents in their area. The council will therefore need to be satisfied if closure of Spencer Nursery is agreed that there is sufficient alternative provision to ensure that this duty continues to be met.
- 6.6 The closure of the maintained nursery school at Spencer Nursery requires completion of a statutory process as set out in the Education and Inspections Act 2006 and the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013. The council is required first to consult with any people or organisations that the authority considers appropriate. The statutory guidance recommends that this includes: the governing body,

parents, teachers and other staff at the school; any Local Authority likely to be affected by the proposal; parents, the governing bodies, teachers and other staff of any other school that may be affected; trade unions; and MPs whose constituencies include the school that is the subject of the proposal or whose constituents are likely to be affected by the proposal. How the stage one consultation is carried out is not prescribed in regulations, although a minimum of six weeks is recommended in the guidance. It is best practice for consultations to be carried out in term time to allow the maximum number of people to respond.

- 6.7 The council needs to consider the response to consultation and if it decides to proceed to propose closure of the nursery a statutory notice must be published of the intention to close giving a four-week representation period for comments to be made on the proposals. The proposals must set out the reason for closure, alternative provision to be made for pupils and a statement setting out the local authority's assessment of the quality and quantity of the alternative provision compared to the school proposed to be discontinued and the proposed arrangements to ensure the expertise and specialism continues to be available; and the accessibility and convenience of replacement provision for local parents. There must be a statement and supporting evidence about the impact on the community of the closure of the school and any measures proposed to mitigate any adverse impact and a statement about the proposed arrangements for travel of displaced pupils to other schools including how the proposed arrangements will mitigate against increased car use. The full proposal must be published on the council's website and a brief notice of the proposals published in a local newspaper and at the school premises. Copies of the proposals must be sent to the DfE, the local Church of England diocese; the local Roman Catholic diocese; and any other body or person that the proposer thinks is appropriate.
- 6.8 The council is responsible for determining the proposals and must do so within two months of the end of the representation period or must refer the decision to the Schools Adjudicator. The local Church of England diocese and the local Roman Catholic diocese have a right of appeal to the Schools Adjudicator regarding any decision made.
- 6.9 At the same time as publishing any proposals regarding the closure of Spencer Nursery the Council will need to publish related proposals for the associated changes to Hackbridge Primary School: to change the age range from 3 to 11 years to 2 to 11 years and to expand the school by the same number of places that are provided at the current Spencer Nursery site. A statutory notice and complete proposals for these changes are also required to be published with a four week representation period and the council will need to decide the proposals at the same time as considering proposals for Spencer Nursery.



7. Appendices and Background Documents

Appendix letter	Title
Appendix A	Spencer Nursery consultaion document with survey
Appendix B	Spencer Nursery consultation responses

Background documents
None

Audit Trail		
Version	FINAL	Date: 20 November 2018
Consultation with other officers		
Finance	Yes	Sue Holmes
Legal	Yes	Sarah Willis
Equality Impact Assessment required?	No	N/A

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