



**Report for:**  
**ACTION**

**Item Number:**

<b>Contains Confidential or Exempt Information</b>	<b>No</b>
<b>Title</b>	Update on Berrymede Infant and Junior schools and Authority to Publish Statutory Proposals for both Schools
<b>Responsible Officer(s)</b>	Tamara Quinn, Assistant Director Planning, Resources & Service Development, Ext. 8444, E-mail: <a href="mailto:TQuinn@ealing.gov.uk">TQuinn@ealing.gov.uk</a>
<b>Author(s)</b>	Tom Lindsay, Education Strategic Advisor, E-mail: <a href="mailto:tlindsay@ealing.gov.uk">tlindsay@ealing.gov.uk</a>
<b>Portfolio(s)</b>	
<b>For Consideration By</b>	Cabinet
<b>Date to be Considered</b>	8 <sup>th</sup> December 2021
<b>Implementation Date if Not Called In</b>	15 <sup>th</sup> December 2021
<b>Affected Wards</b>	All
<b>Keywords/Index</b>	School amalgamation; Closure; Statutory Proposal. Berrymede Infant and Junior

**Purpose of Report:**

The purpose of this report is:

1. To advise Cabinet of the feedback from the consultation on establishing all through primary-phase education provision at Berrymede Infant School and Berrymede Junior School.
2. To obtain authority to proceed with the amalgamation proposal, which for the Council involves publishing Statutory Proposals to close Berrymede Junior School and to extend the age range of Berrymede Infant School to cover the full primary phase.
3. To delegate all necessary authority to undertake the statutory processes of doing so.

## 1. Recommendations

It is recommended that Cabinet:

- i. Notes the response to the consultation about the amalgamation of Berrymede Infant School and Berrymede Junior School to become an all through primary school, and that both Governing Bodies after reviewing the consultation feedback have confirmed their desire to proceed with the amalgamation by closing Berrymede Junior School and extending the age range of Berrymede Infant School;
- ii. Authorises the Executive Director Children, Adults and Public Health, in consultation with the Portfolio Holder, to publish the necessary Statutory Proposals and any further consultative documents required for the closure of

- Berrymede Junior School and for extending the age range of Berrymede Infant School in support of the amalgamation;
- iii. Notes that there will be a further report to Cabinet for determining the statutory proposal.

## **2. Reason for Decisions and Options Considered**

The decision is required to enable the local authority (LA) to progress with the statutory processes for the creation of a an all through infant and junior education provision. This involves the closure of Berrymede Junior School and extension of the age range at Berrymede Infant School.

The Governing Bodies of both schools wish to meet the challenges for education in the future and to enable children to continue experiencing excellent teaching and learning. Almost all pupils progress from Berrymede Infant School to Berrymede Junior School. The schools have been collaborating increasingly closely in recent years, including from this term sharing an Executive Headteacher following the retirement of the Infant School Headteacher last year.

Amalgamating the schools to form a primary school therefore reflects the pupil journey. In addition, Ealing Council and the two Governing Bodies believe that a single primary school is educationally and financially more sustainable than separate infant and junior schools.

The Legal Framework within which Cabinet must consider the proposals is set out in **section 5**.

The relevant background report on starting the consultation was last presented to Cabinet on the 22<sup>nd</sup> of September, can be accessed via the link below:

All through education provision at Berrymede Infant School and Berrymede Junior School <http://ealing.cmis.uk.com/ealing/Committees.aspx>

## **3. Key Implications**

Ealing Council has no directive policy on amalgamation of infant and junior schools into primary schools, it does however prefer primary schools and therefore asks Governing Bodies to consider amalgamation as a way forward. There is also increasing financial pressure on smaller schools with less than 2 forms of entry (420 pupils on roll) to thrive in the current educational environment.

Berrymede Infant has just had an OFSTED inspection September 2021 with a 'Good' outcome and is not due another inspection for at least 4 years, as good schools are inspected broadly every 4 years. Berrymede Junior had an OFSTED inspection in 2019 with a 'Good' outcome and, therefore, is not due another inspection for at least two years. Falling pupil numbers in the area has resulted in both schools' intake falling progressively to below 2FE (60 per year).

When two schools amalgamate at least one of the schools must technically close; there are 3 possible routes:

1. Close both schools and establish a new primary school which, under current legislation, would be expected to be an academy.

2. Extend the age range of Berrymede Junior School into Berrymede Primary School and close Berrymede Infant School.

3. Extend the age range of Berrymede Infant School into Berrymede Primary School and close Berrymede Junior school.

Options two and three would be a practical means to an end and should not be viewed as one school 'taking over' another. The intention is for the primary school to benefit from and build upon the strengths of each current school.

Prior to the consultation the LA did not wish to proceed with option 1 and sought stakeholder responses to either option 2 or 3.

Option 1 is not preferred because if both schools were closed, Government legislation requires, normally, that a 'competition' be held to open a new school with a default position of it being an academy. This allows other organisations to present proposals to operate the replacement new school and can take up to 12 months to complete. Not having a 'competition' allows for a more secure and straightforward transition and is the most secure route to protect current members of staff when considering employment arrangements whilst maintaining the high standards of education for the children.

Stakeholder consultation was run by both schools supported by the Local Authority in October and November 2021. Details of this are included in **appendix A**. The consultation complied with the statutory requirements.

Consultees were asked to comment upon proposals and other matters associated with an amalgamation. With the question: "To what extent do you agree or disagree with the proposal to amalgamate Berrymede Infant and Berrymede Junior School to form a Primary School for children aged 3 – 11 (nursery to the end of Year 6)", the overall support for the proposal was 66% agree or strongly agree from a total of 53 respondents. It should be noted that out of the 53 respondents 18 skipped the question and 6 either didn't know, or neither agreed nor disagreed.

The consultation showed that the majority supported the amalgamation and recognised the closure of one school was a necessary means to an end. The Schools' Governing Boards acknowledge that both schools are good. Their recommendation is to close the junior school and extend the age range of the infants. This is because the Infant school would have a later OFSTED inspection date, allowing the amalgamated Primary school more time to become fully established before the next inspection. This was also reflected in the response to the consultation question: "Bearing in mind that the closure is a means to an end, please indicate your preference for which school should close", of the 53 responses, 37 either skipped the question or had no preference. Of those who did have a preference, 3 were in favour of closing the Infant school and 13 were in favour of closing the Junior school.

On this basis the recommendation is to publish the necessary Statutory Proposals for Berrymede Junior School to close and for the age range of Berrymede Infant School to be extended to cover the whole primary phase. This enables the schools to amalgamate and become an all through primary school, and publish any further consultative documents required.

With regard to the statutory consultation period, the Notice will be completed using the applicable Department for Education (DfE) prescribed template and guidance.

Notification of the publication of the Statutory Notice and Statutory Proposal will be advertised widely, in line with DfE guidance. During this time any person could object to or make comments on the proposals by sending written representation to the Council directly or via the school office, to have their views on the proposals taken into consideration by the decision maker (Cabinet in this instance).

#### **4. Financial Implications**

There is no impact on council's general fund. Any liability falling to the LA because of the closure of a maintained school with a deficit will be contained from an appropriate reserve. The Council has a regular engagement with the schools concerned to ensure that the financial consequences of the amalgamation are managed appropriately and that a consequential deficit required to be written off is minimised. The amalgamation seeks to ensure that the provision is financially viable into the future given future pupil number projections.

School funding is largely linked to pupil numbers, reduced demand impacts school budgets, and is more acutely felt in small schools such as these.

At the end of financial year and as reported to Schools Forum for 2020/2021, Berrymede Infant School had a surplus of £0.074m, a decrease of £0.097m on the previous year. Berrymede Junior School had a surplus of £0.023m, a decrease of £0.131m on the previous year. The schools have implemented a number of successful measures to reduce expenditure while improving standards. However, without further action it is likely that a deficit will arise and these are being projected for 2021/22. This will increase the likely exposure of both the schools and the LA to financial risk.

Two form entry all through primary schools are at a lower risk of financial difficulty and are largely sustainable due to the overall funding available to them and economies of scale, such as a single leadership structure. With a school amalgamation, the school will only have one lump sum, but this will be mitigated by the efficiencies and economies of scale highlighted above. Any redundancy costs through efficiency or early retirement will ultimately need to be borne by the school and we understand that the schools are already doing this and asking for cash flow support.

As maintained schools the land falls under the responsibility and ownership of Ealing Council. The land will remain with Ealing Council after the amalgamation.

#### **5. Legal**

The Council has a statutory duty to ensure that there are sufficient school places in their area. They must also promote high educational standards, increased parental choice, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential. Also, under the School Premises (England) Regulations 2012 suitable outdoor space must be provided in order to enable:

- a) Physical Education to be provided to pupils in accordance with the school curriculum; and
- b) Pupils to play outside

The Education and Inspections Act 2006, the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 establish detailed procedures for the establishment of new schools, the closing of schools and the making of prescribed alterations to existing schools including enlargement.

The Council is currently required to comply with this statutory framework so far as maintained schools are concerned. Therefore, in this case there are two statutory processes that must be followed. One to close the junior school and another to extend the age range of the infant school.

In November 2019, statutory guidance was published entitled: 'Opening and closing maintained schools'. Part 4 of this guidance sets out the stages for closing a maintained school.

Those stages are:

- Stage 1: Consultation (statutory)
- Stage 2: Publication
- Stage 3: Representation
- Stage 4: Decision
- Stage 5: Implementation

Cabinet has the responsibility under the Constitution to agree matters relating to school organisation in the borough, which are not within the legal remit of the Schools Adjudicator or the Secretary of State.

At this stage the consultation has taken place and Cabinet is being asked to give authority for the publication the statutory notice (stage 2). The Local Authority legal department will provide advice and guidance

The representation period (stage 3) starts on the date of publication of the statutory proposal and MUST last for four weeks.

#### In regard to public law and equalities considerations

When making decisions the Council must act reasonably and rationally. It must take into account all relevant information and disregard all irrelevant information and consult those affected, taking into account their views before final decisions are made. It must also comply with its legal duties, including relating to equalities.

As public bodies schools and local authorities have duties, known as the 'public sector equalities duties' under S 149 the Equality Act 2010.

The Equality Act 2010 places separate duties on Local Authorities as the responsible body (alongside the governing body) for schools maintained by the local authority.

## **6. Value for Money**

Representative governors from both schools supported by LA officers have agreed to form a working party to meet regularly to review progress and ensure the process is being managed and executed according to statutory processes and agreed timescales.

## **7. Sustainability Impact Appraisal**

The consultation showed the impact on sustainability will be neutral as outlined within the Council's procurement policies.

## **8. Risk Management**

The Authority is working closely with the governing bodies of both schools and will develop a key risk register. See EAA appendix B. And sections 12 and 13 of this report.

## **9. Community Safety**

There were no concerns about transport, traffic and travel gathered as part of the initial consultation. The amalgamation would not change pupil numbers or the sites occupied by the school.

## **10. Links to the 3 Priorities for the Borough**

The project is linked to 'Opportunities and living incomes' and 'A healthy and great place' priorities.

## **11. Equalities, Human Rights and Community Cohesion**

An Equalities Assessment has been carried out for the proposals described in this report.

## **12. Staffing/Workforce and Accommodation implications:**

- Both schools are maintained, and Ealing Council is the employer of all the staff. Ealing Council will remain the employer after the amalgamation statutory process, and therefore TUPE would not apply as the Primary School would remain a community school.
- The amalgamation partnership board and governing boards of the schools will be reviewing and updating of the operating model for the primary school. Staff changes are not expected. However, HR due diligence will be undertaken if any measures are required, and any pertinent info will be included in future reports

## **13. Property and Assets**

Both schools are maintained by the LA, so the land is freehold owned by Ealing Council.

Ealing Council's legal team will support both schools to ensure all statutory processes are met.

## **14. Any other implications**

None.

## **15. Consultation**

Consultation has taken place with the Portfolio Holder. Extensive consultations have been, and will continue to be carried out with the school staff, parents, local schools, unions and the community.

## 16. Timetable for Implementation

Cabinet decision on whether to proceed to statutory proposals	8th December 2021
Publish statutory proposals	January 2022
Cabinet decision on whether to approve statutory proposals	March 2022
Implementation	September 2022

## 17. Appendices

Appendix A: Consultation feedback report (to follow)

Appendix B: Equalities Analysis Assessment (EAA)

## 18. Background Information

Available at <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

### Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
<b>Internal</b>				
Cllr Kamaljit Kaur Nagpal	Portfolio Holder, A Fairer Start	11/11/21	11/11/21	Throughout
Judith Finlay	Executive Director Children, Adults & Public Health	11/11/21	17/11/21	Throughout
Tamara Quinn	Assistant Director Planning, Resources & Service Development	03/11/21	03/11/21	Throughout
Justin Morley	Head of Legal Services (Social Care and Education)	04/11/21	15/11/21	Throughout
Kathleen Ennis	Principal Lawyer (Housing and Social Care)	04/11/21	15/11/21	Throughout
Laurence Field	Programme Manager, Children's Services	03/11/21	04/11/21	Throughout
Russell Dyer	Assistant Director, Accountancy	04/11/21	17/11/21	Throughout
Stephen Bell	Finance Manager – Children and School Services	04/11/21	17/11/21	Throughout
Craig McDowell	Category Lead (People)	04/11/21	11/11/21	Throughout
Mark Nelson	Head of Schools HR Consultancy	04/11/21	11/11/21	Throughout

<b>External</b>				
	eg voluntary organisation			

**Report History**

<b>Decision type:</b>	<b>Urgency item?</b>
Key decision	No
Report no.:	Report author and contact for queries:
	Tom Lindsay. Education Strategy Advisor



## **Appendix A: Consultation at Berrymede Infant and Junior School relating to closure of one school to enable amalgamation to create an all through primary phase school**

### **Consideration of Consultation**

Members should consider the views of all those affected by the proposal or who have an interest in them including pupils, families of pupils, staff, other schools and colleges etc. Members should not simply take account of the numbers of people expressing a particular view when considering representations made on proposals. Instead, Members should give the greatest weight to representations from those stakeholders likely to be most directly affected by the proposal.

### **Initial Consultation**

The proposal consulted on is the closure one School to enable amalgamation with the other School to create an all through primary phase school. This would involve transferring pupils, staff, land, buildings and equipment to Berrymede Primary.

Almost all pupils progress from Berrymede Infant School to Berrymede Junior School and few join the Junior School who were not previously at the Infant School. The schools have been collaborating increasingly closely in recent years, including sharing an Executive Headteacher since September 2021, which both Governing Bodies believe has benefited pupils.

Amalgamating the schools to form a primary school therefore reflects the pupil journey and formalises the collaboration. In addition, Ealing Council and the two Governing Bodies believe that a single primary school is educationally and financially more sustainable than separate infant and junior schools.

Both schools were judged to be 'Good' when last inspected by OFSTED – Junior inspection (2019), Infants inspection (2021).

The whole consultation period was from **Monday 4<sup>th</sup> October 2021 to Monday 15<sup>th</sup> November 2021**

### **Who was consulted?**

The proposal was sent to the following stakeholders:

- Parents of pupils
- Staff and Governors
- An EGFL gatekeeping article was sent to all Ealing Schools about the proposals
- Ward Councillors
- Local MP
- Adjacent Local Authorities

The initial proposal was available to download on the Ealing Council website during the consultation period, and all parents and staff were notified that the consultation was underway.

### **How were stakeholders consulted?**

- **Consultation Letter and Feedback Forms** – The initial proposal detailed and circulated with a feedback form or an online link attached. Response forms were received online (47) and in paper form (6).
- **Consultation Events** – Parent consultation events took place on 17<sup>th</sup> and 18<sup>th</sup> October. Overall, 10 parents attended the face to face and online meetings.
- A separate event was held for staff on the 4<sup>th</sup> and 11<sup>th</sup> of October 2021
- This was attended by 12 members of staff
- **Emails were sent directly to:**
  - The Ward Councillors
  - Local MP
  - Adjacent Local Authorities
- **An EGFL gatekeeping article was sent to all Ealing Schools about the proposals**

### Feedback from Stakeholders

With the question: “To what extent do you agree or disagree with the proposal to amalgamate Berrymede Infant and Berrymede Junior School to form a Primary School for children aged 3 – 11 (nursery to the end of Year 6)”, the overall support for the proposal was 66% agree or strongly agree from a total of 53 respondents. It should be noted that out of the 53 respondents, 18 skipped the question and 6 either didn’t know or neither agreed nor disagreed.

The four most commonly identified advantages or benefits were:

- Consistency of teaching and learning (mentioned 12 times)
- Smooth transition between Year 2 and Year 3 (mentioned 9 times)
- Increased opportunities for staff development (mentioned 7 times)
- Improved efficiency of resources (mentioned 6 times)

The consultation responses raised some concerns, each of which was raised ten or fewer times. The concerns raised were mainly within seven themes, which are collated below. The response from the Governing Bodies is in italics:

- Whether amalgamation would impact upon the identity of the schools and improve the reputation of the whole school (10)

*“The governing boards and the executive head teacher believe the amalgamation process will raise standards and improve the reputation of the school. Workshops are planned for staff and governors to ensure a positive vision for the Primary school is established”.*

- Staffing implications, including the potential for staff re-structure, and whether the transition would have a negative impact upon well-being (7).

*“The schools are now at the right staffing level, so the amalgamation is not expected to result in job losses”*

- Communication and lack of clarity as to why amalgamation is a good idea (6)

*“The governors believe that Primary can better meet needs of families / community and expectation now favour Primary schools. Berrymede is the last Infant / Junior in the Borough.”*

- Concern about the whole primary phase mixing together (3)

*“The amalgamation proposes to keep all of the current sites open and therefore the infant and junior playgrounds will remain separate. Current class structures and sizes will remain unchanged.”*

- Changing the uniform (3)

*“Any change of uniform would be done gradually and in consultation with parents.”*

- Quality of buildings (1)

*“All existing sites will continue to be used regardless of which school technically closes.”*

- Budget (1)

*“The governing boards believe this will be offset by efficiency gains”.*