

<p>Cabinet</p> <p>22 September 2021</p>	
<p>Report of James Thomas, Corporate Director Children's and Culture</p>	<p>Classification: Unrestricted</p>
<p>Report on the outcome of representations received in response to the statutory (public) notice to amalgamate Ben Jonson Primary and Harry Roberts Nursery Schools</p>	

Lead Member	Councillor Asma Begum, Cabinet Member for Children's, Youth Service and Education
Originating Officer(s)	Terry Bryan, Service Head for Pupil Access and School Sufficiency and Ikwi Mkpuru, School Organisation Manager
Wards affected	St Dunstan's, Stepney Green, Mile End
Key Decision?	Yes
Forward Plan Notice Published	14 May 2021
Reason for Key Decision	To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
Strategic Plan Priority / Outcome	A better deal for children and young people: aspiration, education and skills

Executive Summary

This report informs cabinet of the outcome of the four week period of public representation in response to the statutory notice on the proposal for the amalgamation (merger) of Ben Jonson Primary and Harry Roberts Nursery Schools. This would create an all-through 3 to 11 years' primary school, with effect from 1st January 2022

It recommends for the Mayor in cabinet to consider a decision on whether or not to formally agree for the schools' amalgamation.

Recommendations:

The Cabinet is recommended to:

1. Consider the report and its supporting documents, particularly the statutory notice (Appendix 1) and the Equality Assessment (Appendix 2), along with comments made by respondents to the Statutory Notice.
2. Agree to the amalgamation (merger) of Ben Jonson Primary and Harry Roberts Nursery schools to form an all-through 3 to 11 years' primary school, taking effect from 1st January 2022.

1 REASONS FOR THE DECISION

- 1.1 The recommendation is made in order to determine the council's decision following the responses received to the statutory notice.
- 1.2 The proposal is being put forward as part of the strategy for these two schools to move towards integrated 3 to 11 primary school provision, rather than maintain separate nursery and primary schools. This will benefit children's education by maximising the resources available and optimising the expertise of staff across the nursery and primary age range, providing outstanding nursery practice alongside top quality primary education in a single setting.
- 1.3 The amalgamation will also create a single governing body to drive the school's strategic planning, monitor whole school development to ensure robust accountability and provide an all-through primary school to serve the needs of the local community
- 1.4 Amalgamation of the schools would be achieved through the technical closure of Harry Roberts Nursery and extending the age range of Ben Jonson Primary, to accommodate the displaced Harry Roberts pupils. Ben Jonson Primary School would therefore become a primary school for pupils aged 3 to 11, whilst retaining its original school Department for Education (DfE) registration number.
- 1.5 In line with the DfE guidance (November 2019), 'Making significant changes (prescribed alterations) to maintained schools' and 'Opening and Closing Maintained Schools', public consultation has been undertaken in the form of a first stage informal consultation followed by a formal statutory notice inviting further representation over 28 day period.

2 ALTERNATIVE DECISIONS

- 2.1 The Mayor could decide not to agree to the recommendation for the schools amalgamation. In which case the schools would continue as separate institutions and seek to find alternative ways to work together to gain most benefit from their expertise and resources.
- 2.2 The Mayor could decide to delay his decision on the schools amalgamation. However, this could mean the amalgamation taking place later than the proposed date of 1st January 2022, by which time the position for both schools may be less advantageous and the uncertainty unsettling for children, staff and parents,

3 DETAILS OF THE REPORT

- 3.1 Following a report to cabinet on 28th April 2021, the Mayor agreed for the council to proceed with the issuing of a statutory notice for 28 days, in respect of the proposal to amalgamate Ben Jonson Primary and Harry Roberts Nursery Schools into an all-through 3 to 11 years' primary school. The main facts and the reasons for this decision are set out in both the April cabinet report and also in the earlier first stage public consultation paper attached as Appendix 3.

- 3.2 Notification of the publication of the statutory notice was advertised widely, in line with DfE guidance. It was posted publicly outside the schools and on the schools and council websites on the 14th June 2021. It was also published in East London Advertiser Newspaper on the 15th June 2021. All parents and staff received a copy of the notice, and other stakeholders were signposted to the council website.
- 3.3 Due to the coronavirus pandemic, it was not possible to hold the traditional method of public and parents' meetings for both the first stage consultation and the subsequent statutory notice period. However, several alternative methods were used, in accordance with the Tower Hamlets guidance on public consultation processes during coronavirus. These methods are explained below and in the report on the outcome of the first stage public consultation, included as Appendix 4.
- 3.4 Notwithstanding the reasonable adjustments required, due to coronavirus, stakeholder engagement on these proposals has been carefully undertaken, adopting a proportionate and targeted approach, according to [central government consultation principles](#) and in line with the 'socially distanced' requirements of the pandemic. Although the public response has been relatively low, it is evident that the variety of consultation methods used has enabled a high level of engagement with key stakeholders, particularly with the families and staff at both schools. It is also evident that the schools and their wider communities understand the full nature of the proposals and the possible outcomes from an amalgamation of the two schools.
- 3.5 Overall, from the feedback in meetings with families and staff, there is understanding about reasons for the amalgamation and positivity about the opportunities it brings. Although, it should also be noted that Harry Roberts school staff and parents are saddened by part of the need for change being considered in view of the impact of the reduction in early years funding.
- 3.6 Prior to the start of the consultation, the Local Authority's independent consultant held a series of preparatory meetings with both Ben Jonson and Harry Roberts schools to discuss the background and process for the consultation. These included separate meetings with the head teacher and chairs' of governors, the governing bodies, the school's senior leadership teams and schools' staff. The following formal meetings were then held as part of the consultation, to give consultees the opportunity to ask questions and make their views known

Parents (including wider public)	Information available online and in school newsletters during the Summer and Autumn 2020.
	Virtual Meetings 9.30 and 6pm 6 th July 2020
School Staff	One to one meetings offered 6 th July 2020
	Both Headteachers updated staff during meetings in Summer and Autumn Terms 2020.
	Trade Unions have been also been briefed on the consultation during the Summer and Autumn Terms 2020.

- 3.7 The schools worked with pupils to help them understand the proposal, seeking to reassure them that they would be fully supported throughout this period. This included age appropriate activities when consulting pupils on their views
- 3.8 Given that the statutory public consultation did not raise any issues that could be viewed as reasons not to proceed, this report recommends for the council to agree to proceed with plans for the amalgamation (merger) of Ben Jonson Primary and Harry Roberts Nursery schools into an all-through 3 to 11 years' primary school with the support of both School Governing Bodies.

4 RESPONSES TO THE STATUTORY NOTICE (Second Stage Consultation)

- 4.1 The statutory notice period provided a further opportunity to engage with stakeholders and obtain their views. This followed on from the earlier first stage consultation, the feedback from which was reported to the 28th April 2021 cabinet meeting and is included again with this report as Appendix 4
- 4.2 Five written representations were received in response to the statutory notice. One response was from the Chair of Governors of Harry Roberts Nursery School, on behalf of all the Governors of Harry Roberts Maintained Nursery School, unanimously agreeing to the proposed amalgamation of Ben Jonson Primary and Harry Roberts Nursery Schools and stating:

"We feel that the proposal so amalgamate Ben Jonson and Harry Roberts is the only sustainable option for the future. The last two rounds of nursery school Ofsted inspections have identified Harry Roberts as 'Outstanding' and we would ask that the Local Authority continues to do all it can to maintain specialist early years provision so that this outstanding Nursery practice is not lost throughout the Borough".

- 4.3 Three representations were received from governors at Ben Jonson School, in support of the proposed amalgamation of Ben Jonson Primary and Harry Roberts Nursery Schools.

One representation raised concerns that although parents were invited to the amalgamation consultation zoom meetings, the meetings did not cater for Sylheti/Bengali speaking parents. In response to this concern the LA recognises that it has been difficult to organise meetings during the pandemic, but a number of Bengali parents have contributed to the consultation and to the many informal discussions over the last year where bilingual staff were available, but translation was not requested. The two schools are planning briefings for parents (including bilingual) for September 2021 so that new parents can also be informed, and all parents are updated on the process/progress of the amalgamation.

- 4.4 The statutory notice period did not result in any representation that would give cause for the Local Authority to reconsider its recommendation for the amalgamation of Ben Jonson Primary and Harry Roberts Nursery Schools,
- 4.5 Both schools are in financially health positions and have not been affected by falling roles. If the decision is for the schools to amalgamate a full HR consultation will be completed before 1st January 2022, in line with the Council's 'Human Resources Organisational Change' policy and procedures (Appendix Five).

5 TIMETABLE FOR IMPLEMENTATION OF THE AMALGAMATION

- 5.1 If the decision is made for Ben Jonson Primary and Harry Roberts Nursery Schools to amalgamate, the timetable for implementation will be as follows:

Oct 2021	The LA, schools and THEP will work together to plan and finalise arrangements and the new staffing structures for the new primary school. This planning will also include minor capital works being undertaken to enable the primary school to operate as one set of buildings.
Oct-Nov 2021	Staff consultation will be undertaken on the new staffing structure for the primary school.
December 2021	Harry Roberts Nursery School will formally close on the 31 st December 2021 and Ben Jonson will convert to an all-through (3-11) primary school. Children from Harry Roberts Nursery will automatically transfer to the all-through primary school.
January 2022	Ben Jonson Primary School will officially operate from the 1 st January 2022.

6 EQUALITIES IMPLICATIONS

- 6.1 When making decisions the council must act reasonably and rationally. It must only consider relevant 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.
- 6.2 The Equality Act 2010 requires the LA, when exercising its functions, to have due regard to eliminate discrimination, harassment, victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not (“the Public Sector Equality Duty”).
- 6.3 An Equalities Assessment has been conducted by the LA and is attached at Appendix 2. To date, it has not found any obvious equalities issues arising from this proposal, either for staff, parents or children, that could not be mitigated through the process.

Governors and LA officers have considered carefully whether changes may affect groups disproportionately. They will continue to work with Trade Unions to ensure that planning for any staff changes are fair and equitable and in line with agreed policies, including the Council’s ‘Human Resources Organisational Change’ policy and procedures

- 6.4 The equalities assessment has found that there are no obvious equalities issues arising from this proposal, either for staff, parents or children.

7 OTHER STATUTORY IMPLICATIONS

(i) Managing the Impact of the Amalgamation on School Staff

- 7.1 The LA and School Governing Bodies are working together to support the schools' staff through this change. A formal staff consultation will only take place once the final decision has been made on the schools' amalgamation. However, given that the financial position of both schools is strong, any necessary staff changes for September 2021 will be managed through natural wastage.

(ii) Best Value Implications

- 7.2 The Local Authority has a duty to ensure that governors are fulfilling their duties and that value for public money is achieved, whilst standards are maintained. This proposal supports the sustainability of high quality education for the children as it will maximise the available resource and space as well as ensure the pooling of the significant experience and expertise that exists in both schools.
- 7.3 The proposal does not have any significant mainstream revenue or capital implications for the council. When a school closes its finances (and any surplus or deficit) is returned to the LA. In the case of this amalgamation the Statutory Notice made clear that any remaining balances from the closing school (Harry Roberts Nursery) would be transferred to Ben Jonson Primary School on the last business day of its operation.
- 7.4 The closure of Harry Roberts Nursery School will release the annual lump sum element for the school from the Delegated School's Budget, (at a sliding rate over 2 years). This money reduces the pressure on the DSG that is caused by having a large number of smaller schools and provides better value for money across the school estate. Upon closure of Harry Roberts Nursery, 85% of the annual lump sum will be paid to the amalgamated school the year after amalgamation to support transition.
- 7.5 When a school closes its finances (and any surplus or deficit) is returned to the LA. In the case of this amalgamation the Statutory Notice has made clear that any remaining balances from the closing school (Harry Roberts Nursery) would be transferred to Ben Jonson Primary on the last business day of its operation.

(iii) Environmental (including air quality)

There are no environmental issues arising from this proposal.

(iv) Risk Management

7.6 If this recommendation is agreed, the LA will mitigate any risk by supporting the schools with the further stages of the amalgamation process, ensuring that this is carefully managed and evaluated in line with statutory guidance and taking account the views of stakeholders. The provision for children with Special Educational Needs will not be adversely affected by this proposal.

7.7 Revenue Implications:

In the event of amalgamation of the primary and nursery schools, savings should be generated with regard to employee-related costs as a result of leadership and administration and, as a result of the amalgamation of the two schools, the previous two lump sum payments would be reduced to one, given there will only be one school as result of this proposal.

Based on the current formula an amalgamated school will generate the same amount of Age Weighted Pupil Unit funding. There will however be a reduction relating to the formula lump sum paid.

Under the authority's formula distribution, a lump sum payment is made available to all new and amalgamating schools in the first financial year of opening. Any costs of redundancies as a result of the process would be met by the Local Authority.

This amalgamation process is being taken forward by extending the age range of the Primary School to become the new all-through Primary and closing the Nursery School, therefore the following actions will take place. On amalgamation, the balance of the school to be extended will be retained by the new all-through primary and all other balances (surplus or deficit) will be allocated against the amalgamated primary school budget. The budget of the new school will have financial adjustments to fall in line with typical budgets for that size school.

(v) Safeguarding

7.8 The report deals with the council's approach to managing the supply of school places for the local population. The efficient supply of school places contributes to the safeguarding of children by ensuring their early access to 'good quality' and sustainable education provision.

(vi) Data Protection / Privacy Impact Assessment

7.9 The council handles information in accordance with the Freedom of Information Act 2000 and the Data Protection Act 2018 and is the data controller for the purposes of the Data Protection Act 2018. For more information the privacy notice for Pupil Services can be accessed here.

(vi) Data Protection / Privacy Impact Assessment

7.10 The proposals presented in this report have followed an initial and formal public consultation using a variety of mechanisms. All responses received through these mechanisms or made directly to council officers or members have been included in the analysis of the feedback received. These responses have only been used to assess the community's view of the proposals and not for any other purpose.

- 7.11 The council handles information in accordance with the Freedom of Information Act 2000 and the Data Protection Act 2018 and is the data controller for the purposes of the Data Protection Act 2018. For more information, the privacy notice for Pupil Services can be accessed [here](#).

8 COMMENTS OF THE CHIEF FINANCE OFFICER

- 8.1 The nursery provision of the school would continue to be funded from the early year block and the main school from the Schools block of the dedicated schools grant. Currently Nursery Schools receive a supplementary allocation of funding to represent their specific costs, this would continue for the year following amalgamation but would cease from the Financial year 2023/24 and the nursery provision would revert to the same basis as other nursery provision in mainstream schools. The economies achievable from one management and administrative function would considerably outway the reduction in funding.
- 8.2 There would be a cost to the general fund if redundancies were incurred as part of the amalgamation

9 COMMENTS OF LEGAL SERVICES

- 9.1 In order to amalgamate the two schools, the proposal is for Harry Roberts Nursery School to be closed (“discontinued”) and for Ben Jonson Primary School to expand to take on the previously separate nursery school. The statutory process for school expansion (a ‘prescribed alteration’) is set out in Sections 18 and 19 of the Education and Inspections Act 2006 and in the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. Statutory guidance is given in ‘Making Significant Changes (“prescribed alterations”) to Maintained Schools’ (October 2018). The statutory process for discontinuance of a maintained school is set out in Part 2 of the Education and Inspections Act 2006 and in the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013. Statutory guidance is given in “Opening and Closing Maintained Schools” (November 2019).
- 9.2 Section 149 of the Equality Act 2010 requires a local authority to have due regard to the need to eliminate discrimination, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. An equality assessment has been carried out.
- 9.3 The proposals set out in this report comply with the above legislation and guidance.

Linked Reports, Appendices and Background Documents

Linked Report

None

Appendices

- Appendix 1 Statutory (Public) Notice (Stage two consultation)
- Appendix 2 Equalities Assessment
- Appendix 3 Public Consultation Document (Stage one consultation)
- Appendix 4 Public Consultation (Stage one) Feedback Report
- Appendix 5 Council's HR Organisational Change Procedure

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None

Officer contact details for documents:

N/A