

Committee: Cabinet

Date: 6 September 2021

Agenda item:

Wards: Buildings are located in Lavender Fields ward

Subject: Expansion of Merton Medical Education Services and future of Lavender Nursery

Lead officer: Jane McSherry, Director of Children, Schools and Families

Cabinet Member: Eleanor Stringer, Deputy Leader and Cabinet Member for Children and Education

Contact officers: Tom Procter, Head of Contracts and School Organisation

Allison Jones, Head of Early Years, Family Wellbeing and Early Help

Recommendations:

- A. To agree that the Lavender (London Road) Nursery building remains the most viable option to house Merton Medical Education Services and provide sufficient provision for the borough's growing number of children with medical needs, and officers should proceed to move the service into this building in early 2022.
 - B. To approve that the Lavender London Road Nursery full-time day care provision should move from January 2022 to Lavender Steers Mead in addition to providing the sessional places for children aged 2 that are funded through early education funding, thus maintaining the service in alternative premises within reasonable proximity to the current site.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. On 22 June 2022 Cabinet agreed that Lavender (London Road) Nursery building remains the only affordable option to house Merton Medical Education Services and provide sufficient provision for the borough's growing number of children with medical needs, but officers should engage with stakeholders to consider an augmented option that will provide a continuation of the Lavender Nursery full-time day care provision in other Children, Schools and Families building(s) in Lavender Ward in addition to re-providing the sessional places for children aged 2, thus maintaining the service in alternative premises within reasonable proximity to the current site.
- 1.2. This report outlines the outcome of this work, which is to provide 24 full time equivalent (FTE) places at Lavender Steers Mead as well as 40 sessional places for children aged 2 funded through early education funding in a separate space in this building. 40 further sessional places will also be provided at Acacia and Abbey Children Centres (20 at each centre), therefore fully re-providing the number of sessional places currently provided at Lavender London Road.
- 1.3. It should be noted that if this proposal is not implemented promptly there is significant risk to vulnerable children with medical needs in not implementing a suitable building for their needs and not meeting our statutory duties. Their

temporary provision is not satisfactory and they need to move as soon as possible to provide a suitable environment.

2 DETAILS

Background and context from previous papers

Need for additional places for children with medical needs

- 2.1. Part of Melbury College, Merton Medical Education Services offer high quality, bespoke education provision for highly vulnerable students who live in Merton and who are unable to attend mainstream school because of medical and/ or mental health needs.
- 2.2. Students can be referred by their mainstream school if they have, or will have 15 days of absence from school because of their medical condition based on medical evidence from a hospital consultant or CAMHS (Child and Adolescent Mental Health Services) professionals.
- 2.3. Merton Medical Education Services offer home tuition, in-community provision, on-line learning, a placement at its specialist provision (previously Canterbury Road campus) or a combination of some/all of these, depending upon the individual needs of the student. SENDIS (Special Education Needs Integrated Service) also refers students with EHCPs if they are in Key Stage 4 (national year groups 10 and 11), where this is the most suitable provision to support these vulnerable pupils.
- 2.4. The number of pupils referred to Merton Medical Education Services has increased year on year. Last year, 63 students benefitted from the services. However, the limited accommodation at the Canterbury Road campus only allows up to 20 students to be accommodated at any one time, with pupils requiring the support of small class groups of no more than 10. There has therefore needed to be an over reliance on home tuition, and only KS4 pupils on site. Numbers are forecast to increase, both as the general secondary age population increases, and the increase in children with mental health needs that are unable to remain in mainstream secondary school.
- 2.5. Due to lack of space at Canterbury Road, Merton Medical Education Services temporarily moved to Worsfold House, Church Road, Mitcham, in September 2020. However, this is not suitable as a permanent location. The building is too large and unsuitable beyond the short term due to its dilapidated condition, and the site has been earmarked by the council for housing, including affordable housing, thereby generating a capital receipt that would support the provision of services and minimise future services cuts.
- 2.6. The 22 June 2021 Cabinet report outlined how Lavender Nursery could be adapted to provide for at least 60 children for the medical provision at a fraction of the cost compared to any other option.

Provision at Lavender nursery

- 2.7. From 25 January to 22 February 2021 the council undertook a consultation to expand Melbury Medical provision into Lavender Nursery, and so move

the existing provision from this site and to no longer provide fee paying full-time day care at Lavender Nursery.

- 2.8. The 22 June 2021 Cabinet report outlined how there was opposition to this plan, but that the advice of officers remained that there are sufficient full day-care fee paying early years childcare/early education places within the local area, and sufficient spare nursery capacity in the school sector to provide for any growth in demand. There also remains no alternative option to provide for children with medical needs without prohibitive costs for the council of building on a new site or a substandard and unequal offer for these children, such as relying on home tuition.
- 2.9. The consultation showed there is a preference from some parents for the council to have a dedicated council fee-paying nursery for working parents. Officers therefore looked at alternative options to house the Lavender fee-paying nursery provision. It was agreed that the council should consult stakeholders on an augmented proposal that will provide some full day-care places nearby in addition to continuing to provide the sessional places for children aged 2, funded through early education funding. Since the strategic aim of the council is to provide for families most in need this will result in a revised admissions policy for future admissions and fee structure based on working household income and presenting need i.e. SEND (Special Educational Needs and Disabilities).

Further engagement with parents

- 2.10. Officers engaged with the parents of children on roll and on the waiting list at Lavender Nursery through a webinar meeting on 12 July 2021 and an on-line survey.
- 2.11. The engagement meeting demonstrated that there was naturally still concern and some disagreement about moving the Lavender Nursery provision, but it enabled a full discussion on the rationale for the council's approach, including the reality of a falling number of children aged 0-3 in the borough, numbers of unfilled places in local school nursery classes, and officers' proposals for the new provision.
- 2.12. The survey was sent to the same group of parents; nearly half of the respondents clarified that their children were already leaving in August 2021 as they are of school age, and the survey ensured that detailed feedback was received from those planning to remain in the nursery or start in the nursery in the autumn.
- 2.13. Only 8% stated that they would not continue to use the provision in another location, although 58% were unsure.
- 2.14. When asked for the most important feature of a setting the highest responses were:
- Good space outdoors / garden (52%)
 - Large, bright rooms (30%)
 - Safe / secure (16%)
 - Near to a park (14%)
 - Location convenient (14%)
 - Purpose built for childcare (11%)

- 2.15. These factors were therefore taken into account when considering the best options and how to address concerns raised.

Option of relocation of Lavender Nursery to Steers Mead or Bond Road

- 2.16. Officers have therefore considered a relocated Lavender Nursery, with similar fees for existing users, to satisfy demand in this neighbourhood. This would be smaller, to recognise a more realistic projection of demand within the priority cohort (24 FTE rather than the present 48 FTE), at either Lavender Steers Mead or Bond Road Centre, which are both in Lavender Fields ward and between a 7 - 10 minute walk from the current site.
- 2.17. Our analysis has clarified that the relocation of the nursery will provide for all existing children at Lavender Nursery and those on the current waiting list. However, for separate reasons already outlined, in the future, full day care places will be prioritised towards lower income working households with families that are eligible for 2 year funding under working household income criteria and those eligible due to other criteria i.e. working families whereby children are looked after, children who have left care and are in particular circumstances, and SEND (all aged 2 – rising 43).
- 2.18. Several visits have taken place with staff to review the suitability of each building based on a range of factors, including parental feedback from the original consultation and the survey referenced above. Factors for consideration have included:
- Suitability of the mix of services to be co-located
 - Access and quality of the outdoor space
 - Location/distance from current site
 - Cost
 - Existing recent refurbishment work/value for money/cost
 - Length of time it could take to complete the works
 - Ofsted statutory welfare requirements
 - Impact on other partners using the building
 - Impact on service users outside of the childcare users

It has been generally considered that the day care/nursery would be preferably located at Steers Mead as play, education and care spaces are generally ready for use, including a well-resourced outdoor play area. This site has also been registered before with Ofsted and is within a 7-8 minute walk of the current Lavender Nursery site.

- 2.19. Minor works at Steers Mead are required to:
- Relocate the CLCH (Central London Community Health) refurbished health clinic space to an alternative part of the building, so that a kitchen can be created into this space for use by the nursery
 - Designate a new entrance and create a reception window for service users who are not accessing/using the new nursery
 - Designate an office area specifically for the nursery staff
 - Provide some screening/doors to better designate the internal nursery spaces

- Refurbishment of toilets
 - Buggy park and entrance /exit points to be created
- 2.20. Our other services in Steers Mead will continue as a co-located offer with CLCH and Midwifery and will also allow the option to deliver some of the services for babies in the upstairs room formally used for parenting, through our own early years offer. This will focus our Steers Mead services around universal and early help services for babies and toddlers and their families. The co-location of health visiting with the 2-year preschool, should also support the take up of the 2 year check, and the take up of 2 year funded places more effectively, as well as enhanced multi-professional working for those children with SEND.
- 2.21. In the holidays the empty nursery space used by the pre-school can be considered for use by the Children's Centre i.e. Garden Sessions
- 2.22. The benefits to these proposals not only include the delivery of the 24 childcare/education places and the continued 40 part time places for funded 2 year olds, but also enables us to deliver an offer of age 0 – 18 services from Bond Road. This reimagined approach will complement our wider work with families across a wider age range through the colocation of:
- Family Time Supervised contact for children and young people aged 0 – 18 and their families
 - Parenting Programmes for children and young people aged 0 – 18 and their families
 - Delivery of Family Information Service Hubs (FISH) – for children and young people aged 0 - 18, and up to 25 for SEND, to include Local Offer FISH in the future
 - Delivery of some early learning Children's Centre services 0 – 5, primarily for children aged 2 upwards
- 2.23. So that the nursery can move to Steers Mead, we will deliver the following borough wide family support and early years programmes from the Centre at Bond Road:
- Parenting programmes and crèche
 - Early Learning Together Programmes
- 2.24. Officers are of the view that the above arrangements provide a good offer for local service users, and will minimise cost and reduce the likelihood of a lengthy building project, making January 2022 an achievable relocation date.
- 2.25. The above proposal also retains some office space for staff from across the services, which will benefit local working arrangements for staff delivering across the borough with a combination of office and home based working.
- 2.26. Minor works are required at Bond Road to deliver the additional council wide programmes and these include
- Refurbishment/replacement of a toilet area
 - A removal of one wall to create a larger room for group delivery
 - Removal of a set of sliding doors

- Garden area to be improved and developed, for use by Children Centre Service Users
- New signage

Sessional 2 year old places

2.27. The council currently provides 80 sessional places at Lavender Nursery under the free childcare scheme for eligible 2-year-olds. As outlined in previous papers, the council will relocate the existing council-run 80 places to the following three designated children centre sites, whilst continuing to support sufficiency across the whole childcare market:

- Lavender Steers Mead Children’s Centre CR4 3HL (40)
- Acacia Children’s Centre CR4 1SD (20)
- Abbey Children’s Centre SW19 2JY (20)

2.28. Therefore, Lavender Steers Mead will provide separate spaces for 40 sessional places and 24 FTE full time day care places.

3 ALTERNATIVE OPTIONS

3.1. The 22 June 2021 Cabinet report looked at various options to house MMES, and agreed options to re-locate Lavender Nursery. This report has considered these options in the section above

3.2. With regard to alternative options to house MMES, following challenge, there has been further work to consider housing MMES in surplus space in existing primary schools. However the age profile of these children is different and the primary school would need to be re-configured for the different provisions to be entirely separated. The school site which would be the most viable option would require using the only standalone part of the site, currently used by Early Years. This mean the whole school needing to be re-worked and it would be difficult to re-create satisfactory quality Early Years space for over 100 children elsewhere in the school.

4 CONSULTATION UNDERTAKEN OR PROPOSED

4.1. A consultation was undertaken in January/February 2021, and there was further engagement with affected parents in July 2021 as outlined in the main body of this report.

5 TIMETABLE

5.1. It is proposed that the Lavender (London Road) Nursery site moves from its current building at the end of December 2021, with the relocated nursery starting in January 2022 at the Steers Mead building. As the nursery always closes over the Christmas and new year period, there should be no disruption to families. This will then enable works to start to the current Lavender Nursery building to accommodate MMES.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

6.1. Officers report that the cost of moving MMES into Lavender (London Road) Nursery and adapting its use and changes to other provision to re-house Lavender Nursery Services can be undertaken within the £600,000

contained in the council's capital programme. Reports have outlined that alternatives that can provide a good quality building for MMES would require a new build and the loss of a capital receipt, The DVS valuation information to the council has to remain confidential, but the previous open Cabinet report stated that the total cost of this option at Worsfold House in new build construction and lost capital receipt is within the band of £5-10 million.

- 6.2. The council's ongoing expenditure on Lavender Nursery is greater than the income received. The proposal from February 2021 could therefore have contributed to council savings although, if the proposal were to have gone ahead, redundancies would have been anticipated, with the associated costs for this. The revised option of retaining a full day care nursery at a nearby site would mean an ongoing council subsidy will still be required, and fewer redundancy payments as the majority of the nursery places will be re-provided elsewhere. The specific staffing implications will be set out in the staffing consultation after Cabinet agrees the final option.
- 6.3. While DfE grant was used to build the original Sure Start centre, the experience of councils who have re-purposed buildings is that no money is clawed back if it is continued to be used for Education purposes.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. The Council has a duty under section 19 of the Education Act 1996 to make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them. The MMES provision contributes to meeting this duty.
- 7.2. Lavender Nursery is provided as part of the Sure Start/children's centre provision made by the Council under the Childcare Act 2006. The Council has duties under the Act to make arrangements for sufficient provision of children's centres to meet local need (section 5A). The Council also has a duty under section 6 of the Act 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 parents in their area who require childcare in order to enable them to take up, or remain in, work, or to undertake education or training which could reasonably be expected to assist them to obtain work.
- 7.3. Under section 5D of the Childcare Act, a local authority must secure that such consultation as they think appropriate is carried out before any significant change is made in the services provided through a children's centre; and before anything is done that would result in a children's centre ceasing to be a children's centre. A change in the manner in which, or the location at which, services are provided is to be treated as a change in the services for this purpose.
- 7.4. In discharging its duties in relation to children's centres, the Council must have regard to statutory guidance. This advises that
"The consultation should explain how the local authority will continue to meet the needs of families with children under five as part of any reorganisation of services. It should also be clear how respondents' views can be made known and adequate time should be allowed for those wishing to respond.

Decisions following consultation should be announced publically. This should explain why decisions were taken.”

“A local authority should not close an existing children’s centre site in any reorganisation of provision unless they can demonstrate that, where they decide to close a children’s centre site, the outcomes for children, particularly the most disadvantaged, would not be adversely affected and will not compromise the duty to have sufficient children’s centres to meet local need. The starting point should therefore be a presumption against the closure of children’s centres; and should take into account the views of local families and communities in deciding what is sufficient children’s centre provision.”

7.5. It is considered that the consultation in January/February 2021 together with the further engagement of stakeholders meets the requirements for consultation under section 5D of the Childcare Act. As with any consultation, the Council must consult when proposals are at a formative stage; sufficient information must be given to enable intelligent consideration and response by consultees; adequate time must be given for consideration and response; and the product of consultation must be conscientiously taken into account in finalising any proposals. In making a decision, the Council must conscientiously consider the outcome of consultation that has taken place and its duties under the Equality Act. The Council is required by the Equality Act to have due regard to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited by the Act and to advance equality of opportunity and foster good relations between those who share a ‘protected characteristic’ under the Act and those who do not share a protected characteristic. A ‘protected characteristic’ is defined in the Act as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Council must also ensure that its functions are discharged having regard to the need to safeguard and promote the welfare of children under section 11 of the Children Act 2004.

7.6. The DfE is able to claw back funding when an asset funded wholly or partly by the DfE Sure Start programme is disposed of, or the asset is no longer used to meet the aims and objectives consistent with the Sure Start Early Years and Childcare Grant (SSEYCG). However, the council can seek approval from the DfE, and subject to this prior approval the claw-back may be waived or deferred where an asset continues to be used for a similar purpose consistent with the aims of the grant.

The Lavender Nursery site’s land is a charity trust and Merton Council is the Trustee. The proposals for the change of use for this building does not change any issues in this respect. There are historic issues in relation to the nursery use or any other education use in compliance with this Trust that are currently being considered though given the proposed change of use is from one education use to another no further issues should arise.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. An Equality Analysis was provided as an appendix to the 22 June 2021 report. The position is unchanged and the summary is as follows:

- 8.2. The purpose of the proposal is because site searches showed that the displacement of Lavender Nursery was the only affordable and timely means to provide for some of the most vulnerable children in Merton with protective characteristics and for whom we have a statutory duty to provide education. Providing for these children is a key council priority to help vulnerable groups to achieve. The negative impact is displacing the Lavender Nursery including people with protective characteristics consistent with the area it serves.
- 8.3. The council's proposals, including changes after the consultation, do much to mitigate the potential impact from displacing Lavender Nursery by directly providing childcare in other locations in the local area. However, parents and children including BAME, women and on a low income will need to move sites for their nursery provision and there are fewer full time day-care provision places for those who pay.
- 8.4. The plan seek to mitigates these issues by ensuring the smaller number of places will have an admissions policy giving priority to lower income groups and SEND, and to ensure the transformation to the new arrangements is handled as professionally as possible to ensure no one is displaced and there are few if any compulsory redundancies and if so efforts are made to find alternative jobs in the sector, with a specific Equality Analysis undertake at this time.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. No specific implications. It is not considered an issue that a small number of secondary age children will be passing a playground on their way to their provision.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. If this proposal is not implemented promptly there is significant risk to vulnerable children with medical needs in not implementing a suitable building for their needs. Their temporary provision is not satisfactory and they need to move as soon as possible to provide a suitable environment
- 10.2. The greatest potential risk from implementing this proposal is that there will be insufficient nursery places, and the council not therefore meeting its sufficiency duty. However, as outlined in the main body of the report, officers view is that there is sufficient local childcare provision and there is substantial spare capacity in school nurseries to meet any unforeseen increase in need in the future.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

None

12 BACKGROUND PAPERS

- 12.1. Cabinet paper 22 June 2021
- 12.2. Children and Young People Overview and Scrutiny Panel paper 10 February 2021

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