

PROPOSED CLOSURE OF ASHGATE NURSERY

Consultation response **by the Governors of Central and Ashgate Nursery Federation**

Introduction

1. The governing body disagrees fundamentally with the proposed closure of Ashgate Nursery School. The Local Authority is offering no more than a short-term and ill-conceived solution to a problem which has in the main been created by their own flawed decisions in relation to funding for SEND, combined with the lingering effects of COVID. In addition, the drastic solution offered does not a) remove the deficit or b) fix the SEND funding problem the Local Authority has created. It does not secure the future of Central and will cause massive disruption to the children and families accessing Ashgate currently, and those who may wish to do so in the future; removing in the process much-needed support to families in a particularly deprived area of the City.

The importance of sustaining maintained nursery schools cannot be underestimated. The DfE report (2019), *The Role and Contribution of Nursery Schools in the Early Years Sector in England* clearly shows the differences between maintained nurseries and provision in other sectors, for instance *“Around one in seven (14%) of children in MNS have SEN compared to 10% in nursery classes, 9% in voluntary providers and 4% in private providers”*. It also states that *“MNS offer a greater range and quantity of additional and specialist services than other Early Years providers”*

There is much evidence supporting a similar view which is pertinent to the Ashgate Nursery situation which shows the ‘frontline service’ nature of maintained nurseries (Hoskins et al 2021). The TACTYC research report states:

“Our study pointed to the invaluable role that Maintained Nurseries play, particularly within areas of disadvantage. Maintained Nursery Schools are positioned to impact within their communities, addressing issues of poverty and acting as a ‘preventative service’ with the potential to mitigate the involvement and associated costs of other public services.”

They concluded:

“Our study clearly demonstrated that the loss of the resource of the Maintained Nursery School from the fabric of many urban communities would be virtually impossible to replicate once gone.”

Research from East Yorkshire quantifies the hidden benefits of maintained nursery schools in long term financial, social, health and well-being. They state quite clearly that:

“Both achievement and progress data from the maintained nursery school sector shows that children with complex special educational needs and disability make exceptional progress from their start to exit points.”

When considering the proposed closure of Ashgate councillors must consider these issues closely. It is not surprising that the statutory guidance for school closures states:

“Decision-makers should adopt a presumption against the closure of maintained nursery schools..... the case for closure should be strong and the proposal should demonstrate that:

- *plans to develop alternative early years provision clearly demonstrate that it will be at least equal in quality and quantity to the provision provided by the nursery school with no loss of expertise and specialism; and*
- *replacement provision is more accessible and more convenient for local parents”.*

When determining proposals to close provision, the decision-maker should be satisfied that there *“are sufficient surplus places elsewhere in the local area to accommodate displaced pupils, and the likely supply and future demand for places in the medium and long term”.*

The decision-maker should take into account the overall quality of alternative places in the local area, balanced with the need to reduce excessive surplus capacity in the system. The decision-maker should have regard for the local context in which the proposals are being made, taking into account the nature of the area, the age of the children involved and, where applicable, alternative options considered for reducing excess surplus capacity.

Some schools may be a focal point for family and community activity, providing extended services for a range of users, and their closure may have wider social consequences. Where the school is providing access to extended services, provision should be made for the pupils and their families to access similar services through their new schools or other means.

It is submitted that the Local Authority have manifestly failed to advocate a “strong” case for closure in the case of Ashgate.

2. Local Authority Assertions in the Consultation Document

The underpinning assertions in the consultation document are not accepted.

- **Assertion 1 The proposed Closure is “Primarily due to falling pupil numbers”**

The figures presented in tabular form by the Local Authority which are used to justify this assertion, relate to summer 2019, just 9 months prior to the COVID outbreak and they document falling numbers to summer 2022. These figures are obviously affected directly by COVID and the slow return to pre-covid patterns. They should not be taken as evidence of an inevitable downward trend and do not even demonstrate a drastic reduction in numbers. They may well demonstrate no more or less than the slow business recovery experienced by many organisations. The Local Authority have not demonstrated that Ashgate Nursery is an outlier in this regard. Taking a longer-term view, from the figures below (provided by the Nursery) we can see that the Ashgate occupancy from 2015 showed a gradual upturn from the point when Central and Ashgate nurseries were federated. Since federation with Central Ashgate has attracted an increased proportion of SEND children because increased access to Sp Nds

expertise as Central was an ERF. Since summer 2022, the occupancy figures have increased. This does not fit the narrative advocated by the Local Authority. The intake pattern for nurseries is different than primary schools as it occurs at 3 points in the year; September, Spring and summer, with summer having the highest number.

Historical numbers on roll Ashgate

Year	Number – summer term unless indicated otherwise	Notes
2011	68	Spring figures only available. Assumption of 5 additional pupils for summer term
2012	67	
2013	62	
2014	57	
2015	64	Last term before federation
2016	69	Federation from Sept 2016
2017	76	
2018	74	
2019	82	
2020	No census	77 children
2021	78	
2022	69	
2023	67	Spring figure only (Expect a further 5-10 in the summer)

Governors assert that this is about finance, not demand. This assertion is unfair because it is based on one year's figures (2019) followed by covid-affected admissions. Recovery is in evidence, but this process of consultation leading to potential closure will deter parents from placing their child at Ashgate and thus fulfil the prophecy. This nursery has rarely had 100% occupancy in its history but, until 2019 had managed not to go into deficit through careful management of available funding and actions taken such as federation.

The financial impact of decisions made by the authority in the past, the impact of Covid and its legacy of a slow return to previous numbers has caused the present situation. Covid set back the recovery plan and the authority should now allow more time for the nursery to recover.

Assertion 2: Central can accommodate the children attending Ashgate Nursery School.

The children attending Ashgate fall into several groups:

- 3-4 year olds
- 2 year olds
- SEND children

Each of these groups need to be considered separately because they have differing accommodation and staffing needs. The Local Authority have not looked at this issue in sufficient depth. If they had carried out appropriate investigations, they would have realised the following:

a) Although the transfer of existing Ashgate 3-4 year olds can be accommodated, the numbers transferring in September are at their lowest at this point of the year. Central cannot accommodate the ongoing demand for Ashgate places which will occur in the spring and summer of the following year. These prospective children, many from disadvantaged families, will be displaced. Will they find “*replacement provision (is) more accessible and more convenient for local parents*”?

b) The current 2 year-olds cannot all be accommodated at Central because the combined numbers exceed capacity. Central can accommodate 12 children only in total, so on current figures 8 children will be displaced. Historically there have also been greater numbers in the system. There is no evidence that these children can be accommodated elsewhere because of a general shortage of 2 year-old provision in the City. This point was conceded by Local Authority representatives during the Equality Impact Assessment process.

c) SEND children. In order to have their needs met these children require additional support. In order to avoid any infringement of equality legislation, children with protected characteristics will need to be admitted to Central as a priority. This may have the effect of displacing general provision and thereby increasing the proportion of SEND children within Central Nursery. Unless the funding model changes, the impact on Central’s finances will be dire.

Should any of these children be displaced, or future demand not be met by Central alone, some of these children will struggle to find a place at alternative provision. As the proportion of these children increases, the ability of any business to withstand such business losses is reduced. This makes the admitting of SEND children unattractive financially to any business. It will also critically undermine the financial viability of Central Nursery. The stated objective of this closure proposal, to improve the viability of Central Nursery, will be immediately undermined.

Assertion 3.

Ashgate Nursery School has 40 full time three and four-year-old nursery places which means that there are 80 part time places. The nursery also has 12 full time two-year-old places and families can also purchase additional 12 full time two-year-old places and families can also purchase additional childcare

The Nursery does not have 40 full-time places for 3-4 year old children, as stated. It has 39 and is staffed on a 1-13 ratio. It also has 12 full time equivalent places for 2 year olds, staffed on a 1-4 ratio. The school is staffed according to the numbers because of the ratio regulations.

Assertion 4

The COVID-19 pandemic has also had a significant impact to the take up of early years provision at Ashgate Nursery School.....Covid parents routinely work from home and reduced number of parents purchasing additional childcare sessions

There has been no analysis as to whether this Covid impact applies in the catchment area for Ashgate or can it be regarded as a permanent trend. Located in a deprived area of Derby, the parents who traditionally use Ashgate, are not generally in the types of occupations which lend themselves to “working from home” arrangements. There may well have been job losses during and immediately following the worst phase of the pandemic which would have affected nursery attendance. In fact, the improving picture for Ashgate suggests that confidence may be returning. Without doubt, Covid has had a financial impact on the school with losses calculated

at around £19,000. The direct impact is the loss of income set against the inability of maintained nurseries to furlough staff during the pandemic. The indirect impact is the change in behaviour, which may well prove to be temporary, as suggested by current attendance figures.

Assertion 5 . In line with the national trend, there has been a reduction in birth numbers in Derby over previous years, with City-wide forecasts continuing to show falling primary pupil numbers. As background information, the table below shows primary pupil forecasts for Derby up to 2027/28.

The falling birth rate data is provided in order to show there is no longer any need for Ashgate School. This bare data is incapable of supporting this contention because:

- It takes no account of the specific demographics of Ashgate’s catchment area. Although falling birth rates may be indicative of future oversupply in the City-wide system, it cannot describe where this might be located and so cannot be used to justify the closure of a nursery in this specific location.
- It does not describe or reflect the impact of immigration. Ashgate has a relatively large number of immigrant families. Nor does it take into account fluctuations related to university staff and students coming from abroad.

Assertion 6 The Council recognises Central nursery has higher SEND levels and like other schools they apply for additional SEND funding to support children with SEND from the Schools Early Years Inclusion Fund (EYIF) For those children with significantly complex SEND needs, Central Nursery receives extra funding for each child. 2022 - Central supported 5 EHCP and 5 being assessed and 15 with emerging needs

This assertion relates to Central and does not address the proposed closure of Ashgate. However, SEND funding available is insufficient to cover costs in many settings and this does include Ashgate. In a nursery there are few ways of mitigating this issue as children at this age need vital support to access their entitlement. Ashgate and Central developed reputations for meeting the needs of SEND children and turned no-one away. Ironically, parents have even been signposted to the federation by the Local Authority. Parents who have been turned away from a private nursery setting have been received at Ashgate and Central. If either of the two nurseries in the Federation had not taken these children, who would?

Whilst funding is set by Central Government Local Authorities are responsible for deciding the amount of money (pooled from either or both of their early years and high needs DSG funding) that they set aside for their SEND inclusion fund, and how the fund will be allocated to providers, the LA bears significant responsibility for this situation.

These are the issues with SEND funding which have pushed both Ashgate and Central Nurseries into deficit:

- Delays in processing EHCP’s which are not backdated regardless of processing delay
- Inadequate SEND inclusion funding
- Delays in allocation of funds generally

The Local Authority was aware of the issue and appears to have belatedly accepted that SEND funding does not cover costs. As soon as a child arrives at the nursery and is assessed as needing additional resources, including 1:1 staffing, this has to be paid for even though funding is not in place and not backdated to the point of need. At various meetings with the Local Authority, this point has been pressed. Suggestions have been made by the Nursery, such as the LA paying up-front for anticipated demand for SEND provision, but with a claw-back mechanism. This would be a fairer system for all. The current situation has driven both schools into deficit and without root and branch reform, the closure of Ashgate will not save Central. As a result, closure of Ashgate may be a short term solution but may mean wider loss of provision if it precipitates the closure of Central.

Governors do not accept that the replacement provision offered, in the context of this area, particularly in relation to provision for children with special needs, has not been adequately investigated so as to satisfy legislative requirements.

Assertion 7

The Council and the two Nursery Schools have been working closely together to establish a budget recovery plan. However, this has not been possible due to the scale of the deficit which has continued to increase over the years, and is forecast to increase further.

This assertion is not accepted. Our budgetary monitoring predicted a deficit and the governors and Head requested a meeting with the LA to discuss the very serious implications of the situation. The deficit was licensed for three years, and a deficit recovery plan was created and sent to the local authority in 2020. The LA did not respond to this. Our detailed business plan was subsequently derailed by Covid. There was no support or guidance from the LA in relation to the increasing deficit or how we might mitigate this until we received a warning notice in July 2022. Since the warning notice in July 2022 there have been multiple meetings with different representatives of the LA. In response to these meetings, different iterations of possible budget scenarios were analysed and evaluated. It was concluded by all concerned, including LA finance staff, that the root of our problem was the funding of Special Needs support exacerbated by the Covid pandemic. The funding issues which place both nurseries in jeopardy are set out in more detail below:

- Since 2020 when the ERF was replaced, there has been a significant gap between the level of funding allocated as an ERF (£142,055) and the Special Needs funding received through the current policy of funds “following the child”. This gap has amounted to approx. £61,700 in 2020/21, £63,300 in 21/22 and is forecast for 22/23 at £97,840.
- The Federation was pro-active in setting up extended provision. Children with significant needs have funding support for the basic 15hrs but there is disproportionately low funding available to support those needs when they take up their entitlement of extended provision. Most have to be funded from the nurseries’ own revenue. While this is the case for all settings offering extended provision, the proportion of Special Needs children at Central and Ashgate is much higher than in other settings. There are no other maintained nurseries in Derby who have an equivalent offer and therefore they do not incur the financial impact.
- The time lag in between applying for Element 3 (EHCP) funding and receiving funds has financial consequences. Where funding is related to an EHCP, the lag has ranged between the expected 20 weeks and as much as 63 weeks. Although these children receive some EYIF funding during this time the discrepancy between the two has been

as much as £13,000. The time lag and the inability to backdate funding have significant impact on the budget situation.

- Funding was removed to support 2 year-olds, whatever their special needs. As a result, we have to support high numbers of 2 year olds needing 1:1, 1:2 and 1: 3 staffing ratios for health and safety reasons, with no additional funding. This situation has improved with the recent allocation of £150,000 for 2 year olds. But the decision by the LA to allocate funding adds to the issues that we are facing at both nurseries. A very high needs two year old will now be funded the same amount as a two year old with less significant need. Yet again it punishes the budgets of the settings who accept and support the children with the most complex needs and gives money where it is not needed.

If funding arrangements (and attitudes) do not change then the only alternative is limiting the number of children admitted with significant special needs. The children we are referring to here have *significant and complex needs*. This may be medical, severe developmental delay or other disabilities. Refusing them a place would amount to discrimination and detrimental to their capability to access the next level of their education. The authority has agreed with governors that this would be unconscionable but not offered an alternative solution other than the closure of Ashgate nursery and relocation of children to Central. Governors have given this much consideration and made clear to the Local Authority the risks that this entails both financially and practically. These include the risk of vulnerable children being lost from the system or increased levels of SEND at Central as they transfer from Ashgate.

The Local Authority has not committed to reviewing the flawed SEND funding model they introduced, even though introducing an advanced payment system would be both fair and effective. At the heart of this discussion about money are the needs of disadvantaged children and families who need the care, professionalism and dedication of our staff. It is for these families that maintained nurseries exist.

A very detailed review with the Local Authority relating to the financial situation indicated that both nurseries could be viable, until SEND funding was introduced into the equation.

Conclusion

The covid impact appears not to mark a permanent downward trend in numbers, but rather a temporary reduction caused by behaviour change following the pandemic. Recent indications are that this is a blip. The reputation of Ashgate Nursery was growing before the pandemic and with it, its popularity. It is particularly popular amongst parents with SEND children. The solution is therefore financial. This is not about demand.

As a maintained nursery, Ashgate is located in a disadvantaged part of Derby City. It takes in a disproportionate number of children from low-income families and a disproportionate number of children with SEND. It is a facility which is sorely needed in this area, in order to improve the life chances of children affected by these factors. Closure involves the destruction of a healthy, supportive environment for disadvantaged children and families, with all the negative emotional impact this entails. It risks some children falling out of nursery education altogether, with a serious impact on their life chances.

This situation has been brought about by the Nursery Federation doing what it should be doing in supporting the pre-school community and improving the life chances of disadvantaged families. The Local Authority asked the nurseries to offer provision for 2 year olds after the Children's centres were disbanded, we did this but funding has been inadequate. The nursery was proactive in developing the extended hours for 3 and 4 year olds in 2017, but this was not matched by SEND funding to cover the additional staffing needed. The nurseries offered extended hours and 48 week opening. This was encouraged and supported by the Local Authority. Up until 2019, this resulted in growth at both nurseries. We have worked hard at developing other income streams, such as holiday and extended hours provision, the kitchen (offering freshly cooked food on the premises and supplying nearby nurseries) and the charity, for enrichment and resources not covered by general school funds. Will all this be absorbed by other providers including Central?

Should Ashgate be closed, it will not guarantee the future of Central, without these funding issues being addressed. Closure will however guarantee a negative impact on the families of children currently attending Ashgate and those who would have liked to have attended in the future who will no longer have the additional support offered.

References

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