

CHILDREN AND YOUNG PEOPLE OVERVIEW AND SCRUTINY COMMITTEE

3 OCTOBER 2019

OUTCOMES OF STATUTORY CONSULTATION FOR THE PROPOSED PRESCRIBED ALTERATIONS AT ST NICHOLAS CHURCH OF ENGLAND (VC) INFANT SCHOOL

Report from: Ian Sutherland, Director of People - Children and Adults Services

Author: Paul Clarke, Programme Lead School Organisation and Capital Services

Summary

This report outlines the outcomes of the formal consultation (statutory representation) period on the Council's proposal to change St Nicholas from an infant to a primary school, by way of statutory prescribed alteration. The Children and Young People Overview and Scrutiny Committee is asked to consider the report and make comment for inclusion within the outcomes report to Cabinet.

1. Budget and policy framework

- 1.1. The proposals to make a prescribed alteration to St Nicholas Church of England (CE) Infant School is consistent with the provisions of the School Place Planning Strategy 2018-22, and with the Council Plan outcome of 'All children achieving their potential in schools' and are within budget. Therefore this will be a matter for the Cabinet.

2. Background

- 2.1. St Nicholas CE Infant School is currently a PAN 40 voluntary controlled infant school, providing early years and key stage 1 education for up to 120 children age 4-7 in the Strood area. The school is rated as Outstanding by Ofsted and is popular with parents.
- 2.2. When the children transfer to Junior School for key stage 2, they generally move to Gordon Junior School a short distance away. Gordon Junior School is not a faith school and some parents would prefer the option of continuing their child's education at a Church of England School. The pupils are only able to choose an alternative junior school if places are available in nearby primary schools.
- 2.3. By St Nicholas becoming a through primary school, the children will be able to stay at the school for their primary education, reducing transition and enhancing outcomes through cohesion and continuity of education. Should

the proposals be approved, the school, when full, would cater for 210 children aged 4-11.

- 2.4. On the 15 January 2019, under decision 4/2019, the Cabinet agreed to authorise the Director of People - Children and Adults Services, , to commence the informal consultation statutory process for the proposed change to St Nicholas Infant School.
- 2.5. The first stage in the process comprised of a five week informal public consultation, this took place over a five week period between 28 January and 3 March 2019, and the results of this were set out in a Cabinet paper on 11 June 2019 (<https://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=47600>).
- 2.6. At the Cabinet meeting on 11 June 2019, under decision 67/2019, the Cabinet authorised the Director of People - Children and Adults Services to commence the formal consultation stage of the statutory process. This took place over a four-week period between 24 June and 21 July 2019. The results of this formal consultation are set out in section 4 of this paper.
- 2.7. At the same meeting, under decision 68/2019, the Cabinet agreed to delegate authority to the Director of People - Children and Adults Services, in consultation with the Portfolio Holders for Children's Services (Lead Member) and Education and Schools, to determine whether to approve the proposals at the end of the statutory representation period if no objections are received. However, as an objection has been received, the proposal must now be referred to Cabinet.
- 2.8. The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 Schedule 3 paragraph 5 legislates that the determination of the proposals must be made within two months of the end of the statutory representation period. The Statutory representation period ended on 21 July 2019.
- 2.9. The timetable of the process was established on the understanding that the Children and Young People Overview and Scrutiny Committee (CYP O&S) would not be requesting to view the report pre decision. However, following the receipt of an objection it was decided that the report should be presented to the Overview and Scrutiny committee for comment.
- 2.10. As the next CYP O&S meeting was not until 3 October 2019, it meant that any Cabinet decision, following consideration by O&S, would exceed the two month timeframe. As the timeframe is set in law, it cannot be extended, and in such circumstances the decision making reverts to the Office of the Schools Adjudicator (OSA).
- 2.11. Therefore any comments made by the CYP O&S committee will be included in a report to Cabinet and the Cabinet will be asked to consider the report and the comments and make formal recommendations, which will form part of the submission to the OSA.

3. The Proposals

- 3.1. The proposals are, by way of statutory prescribed alteration;
- A 'Change of age range'. This will extend the upper age range at the school from 7 to 11. This element is proposed by the school's Governing Body, with the Local Authority usually the decision maker.
 - The 'Enlargement of the premises' to ensure sufficient physical capacity is available for the school when full with a 210 pupil capacity. This element is proposed by the Local Authority, which is also usually the decision maker.
- 3.2. It is proposed, subject to the recommendation of the Cabinet, and the decision of the Schools Adjudicator to formally implement the changes on a date to be agreed between the local authority and the school on or after the 1 September 2020.

4. Results of the Formal Consultation

- 4.1. As part of the statutory process, there was an informal consultation where the views of all interested parties could be expressed, and all views taken into consideration prior to formal publication of proposals. The period of informal public consultation ran for five weeks from 28 January to 3 March 2019.
- 4.2. Following on from the informal consultation, there was a four-week formal consultation, or statutory representation period. The period ran from 24 June to 21 July 2019.
- 4.3. A notice was published in the Medway Messenger newspaper to notify the public of the statutory representation period, and to direct them to where they could find details of the statutory proposals. These proposals were published on the Medway Council website. A copy of the notice and the proposals are attached as appendices 3 and 4.
- 4.4. There were four responses to the formal consultation, three in support and one opposed. These are addressed in section 5.

5. Advice and analysis

- 5.1. St Nicholas CE Infant School is currently a PAN 40 voluntary controlled infant school, providing early years and key stage 1 education for up to 120 children age 4-7 in the Strood area. The school is rated as Outstanding by Ofsted and is popular with parents.
- 5.2. If these proposals, and the associated changes at Gordon Infants and Juniors are implemented, St Nicholas will become a primary school with 210 places and the Gordon Schools will have 630 places an increase of 50 from the current capacity. This is an increase of 140 places in Strood (20 per year group). There are several large housing developments underway and proposed in Strood which will result in more demand for places, these

additional places will help to meet some of that demand. It would be 2027 before the schools are full at their new capacities.

- 5.3. The associated proposals at Gordon Schools will result, over time, in an increase in the PAN at the infant school from 60 to 90, and a decrease in the juniors from 100 to 90. This will enable the Gordon Schools to be an all through primary with the children benefitting from a seamless and coordinated primary education.
- 5.4. Some capital work will be required at both schools, and this will be funded through the Children and Adults Capital Programme, comprising of central government basic need grants and S106 contributions.
- 5.5. As an academy, the responsibility for the appropriate consultations relating to the Gordon Schools falls to the Trust, with the Regional Schools Commissioner being the decision maker. The Trust intend to consult on their element of the wider changes if approval is given for the St Nicholas proposals by the Council.
- 5.6. An admissions consultation will take place to amend the PAN of St Nicholas from 40 to 30. The Gordon Academies will also need to amend their admissions criteria; the infants from PAN 60 to 90 and the juniors from 100 to 90. This will be a coordinated approach to ensure the appropriate timescales are met.
- 5.7. National policy emphasises that popular and successful schools should expand. These proposed changes will increase the number of places in a school rated Outstanding by Ofsted, and increase the supply of faith places in Strood.
- 5.8. There is not expected to be a detrimental impact upon other local schools, however how parents choose which primary school to send their children to can depend upon each school's popularity and performance, which can fluctuate over time.
- 5.9. The remainder of this section summarises the supportive responses and sets out the officer response to the objection received during the statutory representation period, highlighted in section 4 above.
- 5.10. Three supportive responses were received, highlighting their personal experience of St Nicholas Infants, and the impact that transitioning to a junior school at age 7 had. One response stated that as well as the children having to get used to a new school, the teachers have new pupils. In a primary school they would be able to talk to previous class teachers, but this is not possible in separate schools.
- 5.11. There was one objection to the proposals. This was on the grounds that parents and residents at Gordon Infant and Junior Schools had not been consulted in the same way as those at St Nicholas had been due to the Gordons Schools not yet having undertaken their consultation. The respondent stated that it was felt that the original consultation process was misleading. It also raised a concern that "it is reasonable to conclude that this joint proposal for the three schools will result in the loss of a greenfield

site". The latter comment based upon an expectation that the Trust operating the Gordon schools would look to build a new school on its detached playing field.

5.12. Officer response:

- 5.12.1 As stated in section 5.5 above the trust do intend to consult on their element of the changes as soon as is possible after the decision on St Nicholas. Officers will encourage the Trust to undertake a consultation that includes a wide range of stakeholders and certainly includes local residents.
- 5.12.2 The associated impacts at the Gordon Schools are set out in the original consultation document under the section headed "*Why is there a need to change St Nicholas from an infant to a primary school*". At this point there was little else to add as the impact upon the Gordon Schools was and is straightforward.
- 5.12.3 Regarding the point about the Gordon School relocating to their detached playing field; it is difficult to comment on this as this would be a question for the Trust to answer. However, the cost of any such build is likely to be inhibitive in the current education financial climate, any proposals would require full and separate consultation for both planning and education. Therefore all stakeholders will have the opportunity to comment or raise concerns should the Trust put forward relocation proposals for the Gordon Schools.
- 5.12.4 Further to the above, officers are in discussions with the Gordon Schools as to what additional premises they would need on their current site to cater for the additional pupils. Those conversations are concerned with the development of the current site and no mention has been made of the detached playing field.

6. Diversity Impact Assessment

- 6.1. A Diversity Impact Assessment (DIA) screening form is attached as Appendix 2. The DIA looks at how the proposed changes could impact upon various groups. The report shows that there could potentially be some impact upon certain groups; however it shows that any impacts are expected to be positive ones. The screening form indicates that a full DIA is not necessary.

7. Impact of the proposal on arrangements for looked after children

- 7.1. Looked after children receive the highest priority for admission to all Medway schools. If necessary, the Admissions Code allows the council to place looked after children in schools that would otherwise be deemed full. This ensures that the council can secure appropriate provision for children that are looked after by the local authority. This strategy covers both mainstream and special schools and as such includes St Nicholas School.

8. Risk management

8.1. The following risks arise if the proposals as stated in this report are not implemented. These are:

- A risk that it could undermine the Council's need to ensure the most effective use of resources, and in turn, the aim to raise standards across all schools.
- Parents dissatisfied at not being able to access a local faith school for junior age pupils, potentially leading to parents having children at different schools and the logistical problems that this would bring.

8.2. The following risks could arise if the proposals are implemented:

- If the expected numbers of pupils do not materialise, then the school may find itself having surplus places as well as larger buildings to maintain without the funding to do so. Current forecasts based upon roll numbers, birth rates and inward migration due to housing development in the area generally, together with St Nicholas being a good and popular school indicate that this risk is likely to be minimal.

9. Financial and Legal implications

9.1. Medway's maintained schools are funded from central Government via the local authority in the form of the dedicated schools grant. This is a ring-fenced grant for the provision of education across Medway and must be used to fund schools (and certain specified services to schools), and cannot be used to fund other Council services.

9.2. The physical expansion of St Nicholas CE Infant School will be funded via the Children and Adults Basic Need Capital Programme, which is mainly funded by section 106 developer contributions. The expansion will be dependent on sufficient available funding within the Children and Adults Basic Need Capital Programme.

9.3. Some capital works will be required at the Gordon Academy. This will also be funded via the Children and Adults Basic Need Capital Programme, which is mainly funded by section 106 developer contributions. The expansion will be dependent on sufficient available funding within the Children and Adults Basic Need Capital Programme.

9.4. The School Admissions (Infant Class Sizes) (England) Regulations 2012 sets a statutory maximum class size of 30 pupils in each key stage one year-group. With a PAN of 40 St Nicholas CE Infant School are required to either open two classes per year or operate mixed year groups, which can place pressure on finances, and makes organising classes more challenging. A reduction in the PAN to 30 will enable the school to provide one class per year group, which will result in a more streamlined and cost-effective education provision.

9.5. The Council has the power under sections 18 and 19 of the Education and Inspections Act 2006 to make "prescribed alterations" to a maintained

school. The procedure for making prescribed alterations is set out in the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.

- 9.6. As set out in sections 2.8 to 2.11, in this case the Council is not the decision maker due to the time lapse between the end of the statutory representation period and the proposed decision making date. Therefore, the decision on the proposals reverts to the OSA. The Cabinet can make recommendations to be included within the submission to OSA.
- 9.7. From 24 January 2014 there is no longer a prescribed 'pre-publication' (informal) consultation period for prescribed alterations, there is however a strong expectation on Local Authorities to consult interested parties in developing their proposal prior to formal publication as part of their duty under public law to act rationally and take into account all relevant considerations. The previous informal consultation satisfies that expectation.
- 9.8. The Council has a statutory duty to provide sufficient good quality school places.

10. Recommendation

- 10.1 The Committee is asked to note the report and provide comment for inclusion into the Cabinet report.

Lead officer contact

Paul Clarke, Programme lead - School Organisation and Capital Services
Tel 01634 331031
Email paul.clarke@medway.gov.uk

Background papers

- 1) Making significant changes ('prescribed alterations') to maintained schools - Statutory guidance for proposers and decision-makers - October 2018.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756572/Maintained_schools_prescribed_alterations_guidance.pdf
- 2) The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013. <http://www.legislation.gov.uk/ukxi/2013/3110/contents/made>
- 3) School Place Planning Strategy 2018-2022
https://www.medway.gov.uk/downloads/file/4037/school_place_planning_strategy

Appendices

- 1) List of consultees
- 2) Diversity Impact Assessment screening form
- 3) Public Notice
- 4) Statutory Proposals