
Meeting: Executive (Delegated decision to the Executive Member for Children's Services, Councillor Mark Versallion)

Date: 17 December 2012

Subject: Determination of statutory proposals to extend the age ranges of Houghton Regis Lower School, and St Mary's Catholic Voluntary Aided Lower School in Dunstable

Report of: Edwina Grant, Deputy Chief Executive/ Director of Children's Services

Summary: The report sets out the representations received by the Council to the statutory proposals to extend age ranges at one Community Lower School in Houghton Regis and one Voluntary Aided Lower School in Dunstable. These proposals have been subject previously of statutory consultation and a further statutory notice period has now concluded requiring the Council to consider representations received and to now determine the outcome of the proposals.

Advising Officer: Edwina Grant, Deputy Chief Executive/ Director of Children's Services

Contact Officer: Pete Dudley, Assistant Director for Learning, Commissioning and Partnerships

Public/Exempt: Public

Wards Affected: Houghton Hall, Caddington

Function of: Executive

Key Decision Yes

CORPORATE IMPLICATIONS
Council Priorities: The report supports Central Bedfordshire's Medium Term Plan: <i>Delivering your priorities – Our Plan for Central Bedfordshire 2012-2016</i> and the specific priority of Improved Educational Attainment.

Financial:

1. The implementation of the proposal to extend the age range at Houghton Regis Lower School requires approximately £200k capital investment to provide required additional class space, of which the school has committed £120k from its own reserves. The shortfall of £80k is to be met through a capital loan agreed between the Council and the school's Governing Body, established under terms and conditions set out in the Scheme for Financing Schools but funded from carry forward in Department for Education grant which will not impact on the Council's general fund. This loan scheme is to be extended in the future to all Council maintained schools.
2. In publishing statutory proposals for St Mary's Catholic VA Lower School, the Governing Body of the school therefore carries the duty to implement the proposal if it is approved. At the point of determination of the proposals the Council as decision maker must be satisfied, that the school is able to implement the decision.

The implementation of the proposal to extend the age range at St Mary's VA Lower School is not reliant on any additional teaching or class space as the building already has sufficient capacity to accommodate the additional year groups.

The school's Governing Body has however budgeted for some minor internal renovation and the provision of additional playground space estimated at £37k. St Mary's is a Voluntary Aided school and may also seek any capital it requires through the Locally Controlled Voluntary Aided Programme (LCVAP) with the support of the Diocese.

3. The day to day running costs of expanded provision is met through revenue funding which is made available to each school as part of the dedicated schools grant, calculated on a per pupil basis.

Legal:

4. The main legislation governing school organisation is found in sections 7-32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) (England Regulations 2007 and the School Organisation (Prescribed Alterations to Mainstream Schools) (England) Regulations 2007.
5. The Department for Education produces guidance which provides information on the procedures established by this legislation containing both statutory guidance (i.e. guidance to which local authorities and governing bodies have a statutory duty to have regard) and non-statutory guidance, on the process for making changes to the upper age limit of a maintained mainstream school.
6. The Executive Member for Children's Services is authorised, under delegated authority, to exercise the Council's duty to determine proposals to alter the upper age range of pupils in schools. As decision maker the Council must be satisfied that the proposals have followed due process and must also have regard to statutory guidance.

7. As decision maker for the statutory proposals reflected in this report the Executive Member for Children's Services must determine whether to approve the proposed changes within two months of the close of the determination period, otherwise the proposals will be referred to the schools adjudicator.

8. The following bodies may appeal against a Council decision on the proposals in this report:

- The local Church of England diocese.
- The bishop of the local Roman Catholic diocese.
- The Governors and Trustees of a voluntary school that is subject to the proposals.

Any appeals must be submitted to the Council within 4 weeks of the decision and the Council must refer the matter to the schools adjudicator.

Risk Management:

9. Each of the proposals set out in this report has been developed and evaluated against the key criteria for decision makers that are outlined in guidance. Likewise the proposals have followed the procedures set out in regulation. This mitigates the risk on the Council of failing to comply with the relevant statutory requirements.

Key risks mitigated by the process that has been followed include:

- Failure to discharge legal and statutory duties/guidance.
- Failure to deliver the Council's strategic priorities.
- Reputational risks associated with the non delivery of required school places.
- Financial risks, including significant capital commitment to the Council, and the consequential additional running costs that will be borne by the schools.

10. If approved, the implementation of each proposal will be subject of a detailed change management plan developed by each school and supported by the Council and for St Mary's VA Lower by the Roman Catholic Diocese. These plans will include risk assessment and management criteria to ensure effective delivery of the objectives set out in the proposal documents. Any contract and construction risks will be overseen through the schools and Diocese project management of agreed projects.

Staffing (including Trades Unions):

11. Staff and Trade Unions at both schools have been engaged throughout the consultation process.

12. Two responses were received from Unions to the Houghton Regis Lower School proposal.

One response accepted that for some 9 year old children the retention within a small familiar school would be beneficial before transition to Key stage 3. The respondent also stressed the importance of consultation with parents and carers, which has been comprehensive throughout this process.

The second respondent raised concerns that the proposal should only be considered in consultation with other schools in the area, which it has, and also of the school's financial position as the proposal requires capital investment, which is to be provided through a loan as outlined in this report.

13. No responses were received from Unions to the St Mary's VA Lower School proposal.

14. Staff at both schools have indicated their support for the proposals and each school also acknowledges its need to recruit new staff for the additional year groups. Each school has stressed that the proposed changes will be supported by the Primary trained staff that they currently have and that a larger school could allow for better career progression for all staff than is available in a small school.

15. The Roman Catholic Diocese of Northampton has been fully engaged and supportive of the proposals brought forward by the Governing Body of St Mary's VA Lower School, who are employers of the staff.

16. In addition to the Council's statutory responsibilities as employer of staff in Community Schools, schools should ensure that they will have the support of their Human Resources provision where any proposals require changes in school staff structures or to terms and conditions of employment. The Council, in undertaking its statutory responsibilities, will have a role to ensure correct procedures have been undertaken where procedures may lead to dismissal.

Equalities/Human Rights:

17. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and to foster good relations in respect of the following protected characteristics: age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

This statutory duty includes requirements to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

18. As Decision Maker for these proposals, the Executive Member acting on behalf of the Council has considered that there are no race or disability discrimination issues that arise from the changes being proposed. Both of the schools has carefully considered these issues and the impact on provision for children with special educational needs and disabilities in their proposal documents that have been publicised with the statutory notices. Similarly each school has made a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of their local communities, while ensuring that such opportunities are open to all. The impact on extended school services is also outlined in the proposal documents attached to this report.
19. The proposal to extend the age range of St Mary's Catholic VA Lower School supports the clear parental demand indicated throughout the consultation process for a continuation of Catholic provision for years 5 & 6, also enabling a clear transition to secondary Catholic provision in Luton and in Hemel Hempstead for those who choose it, where a place is available.
20. In January 2011, the Department for Education produced the most recent of its reports on Schools, Pupils and their characteristics. The report indicated that 10% of all Primary aged pupils (and 10% of all Secondary aged pupils) in England were taught in a school with a Roman Catholic religious character. In Central Bedfordshire approximately 2% of all Primary aged pupils (0% of all Secondary pupils) are taught in a school with a Roman Catholic religious character.

Public Health

21. The schools currently provide a range of extended schools services including:
 - Transition support for pupils, schools and families
 - Combined clubs and after school activities
 - Promotion of inter school sports and other activities
 - Holiday activities
 - Breakfast and after school clubs and activities
 - Support for vulnerable pupils and families i.e siblings group and young carers.

Community Safety:

22. The Council has a statutory duty to consider community safety implications in undertaking its delivery of core services. Extending the age ranges for the schools noted will require the Council to work with the schools to ensure that the community safety impact has been assessed and appropriate measures to mitigate any risk have been implemented. Complaints regarding noise, litter, young people and general anti social behaviour are higher in areas surrounding schools. Increasing the numbers accessing schools has the potential to further increase complaints. The impact on travel and access has been considered, and the Council will need to work with the schools to ensure that the wider community safety impact is considered and appropriately addressed.

Sustainability:

23. Whilst there may be additional costs in order to meet sustainability objectives for any new build and/or expansion of existing schools, these will be contained within the costs identified for each individual project and informed by the Council's Schools Sustainable Design Brief. These measures would contribute to reduced running costs through better energy and resource efficiency, and therefore limit the Carbon Reduction Commitment burden on the Council and the school, alongside creating a better learning environment for the pupils.

Procurement:

24. The Council's Procurement Team will continue to provide support for any scheme of planned capital investment to implement the proposals set out in this report, funded by the schools. This will ensure that value for money is secured and a range of potential procurement routes are considered.

Overview and Scrutiny:

25. This matter has not been considered by Overview and Scrutiny.

RECOMMENDATIONS:**The Executive Member for Children's Services is asked to:**

1. **note that the procedures established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (as amended by The School Organisation and Governance (Amendment) (England) Regulations 2007 and The School Organisation and Governance (Amendment) (England) Regulations 2009, have been complied with in bringing forward the proposals outlined in this report;**
2. **consider the representations received in respect of the St Mary's VA Lower School proposal attached at Appendix C, to the statutory notice as set out in Appendix B, issued on the 22 October 2012 under Section 19(3) of the Education and Inspections Act 2006 for St Mary's Catholic VA Lower School. No representations were received in respect of the Houghton Regis Lower School proposal;**
3. **approve the statutory proposals to extend the age ranges of the following two schools to become 3-11 Primary Schools, with effect from September 2013:**
 - i. **Houghton Regis Lower School to provide 315 places in the main school for pupils aged 5-11, with a published admission number of 45, plus provision for 52 part time nursery places; and**
 - ii. **St Mary's Catholic VA Lower School to provide 210 places in the main school for pupils aged 5-11, with a published admission number of 30, plus provision for 52 part time nursery places.**

<i>Reason for Recommendations:</i>	<i>To determine the outcome of the statutory proposals following the close of the representation period on the 3 December 2012. If the Council were to fail to decide these proposals within 2 months of the end of the representation period it must forward proposals, and any received representations, to the schools adjudicator for decision.</i>
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Executive Summary

26. The purpose of this report is to provide the Executive Member for Children's Services with sufficient information and guidance to enable him to determine the proposals to extend the age ranges of Houghton Regis Lower School and St Mary's Catholic VA Lower School.
27. The report will set out the background to the proposals and the process that they have followed to date, aligned with the statutory requirements set out in legislation and Department for Education guidance for proposals of this nature.
28. The report concludes with a recommendation to approve the proposed changes to age ranges at these two schools, with an implementation date of September 2013.

Background

29. Central Bedfordshire's guidance for maintained schools proposing changes to age ranges was published on the Council's website, in Central Essentials and Governors Essentials and in the Members Bulletin in September and October 2011. The guidance was created using Department for Education statutory guidance for decision makers as its basis.
30. A proposal from the Governing Body of Houghton Regis Lower School to become 3-11 Primary schools from September 2013 was received and acknowledged by the Council in June 2012. The proposal was subsequently approved by the Deputy Chief Executive / Director of Children's Services, in consultation with the Executive Member for Children's Services, to proceed to initial consultation.
31. Separately, the Governing Body of St Mary's Catholic VA Lower School determined, as it is able to do as a Voluntary School, to undertake initial consultation on a similar proposal to become a primary school. Although the school is able to propose to change its age range, to consult and to publish statutory notices for the purpose, the Council is the eventual decision maker in the process.
32. The initial consultation period for Houghton Regis Lower commenced on 20 July 2012 to 8 October 2012. The initial consultation period for St Mary's Catholic VA Lower School commenced on 6 September 2012 to 18 October 2012. Each school was supported to ensure that the process followed that set out in Department for Education guidance and regulation.

33. The Governing Body of Houghton Regis Lower School submitted its consultation materials, minutes of public meetings and copies of all responses received, to the Council.
34. Houghton Regis Lower School also prepared a summary of the responses received, setting out those made in support and objection to the proposal and also providing additional comment where relevant. The Governing Body also formally confirmed their continuing support for the proposal and requested that the Council approve the publication of statutory proposals.
35. The school's consultation materials, minutes of public meetings and copies of all responses, including the school's own response to issues raised is attached at Appendix A to this report.
36. On the 18 October 2012 the Acting Director of Children's Services, in consultation with the Executive Member for Children's Services, considered the representations made to the initial consultation and the statement of the Governing Body of the school and approved the publication of statutory proposals, under Section 19(1) of the Education and Inspections Act 2006, for the school to change its age range to become a Primary School catering for pupils aged 5-11 with effect of September 2013.
37. The Governing Body of St Mary's Catholic VA Lower School also considered the outcome of their initial consultation and determined to progress with the publication of statutory proposals under Section 19(3) of the Education and Inspections Act 2006 to change their age range to become a Primary School catering for pupils aged 5-11 with effect of September 2013.
38. Both of the statutory proposals were published in line with Department for Education guidance on 22 October 2012 along with evidence of the initial consultation and other information prescribed by regulation inviting further comment or objection to the proposals by the end of the representation period on 3 December 2012. Copies of the Statutory Notices and the prescribed information for each of the proposals are attached at Appendices A and B for Houghton Regis Lower School and St Mary's Catholic VA Lower School respectively.
39. If the Council were to fail to decide these proposals within 2 months of the end of the representation period it must forward proposals, and any received representations, to the schools adjudicator for decision.

Determination

40. The Executive Member for Children's Services is authorised, under delegated authority, to exercise the Council's duty to determine proposals to alter the upper age range of pupils in these schools. As decision maker the Council must be satisfied that the proposals have followed due process and he must have regard to guidance issued by the Secretary of State.

41. Before judging the respective factors and merits of the statutory proposals, the Executive Member for Children's Services must consider four key issues. These are:
- Is any information missing?
 - Does the published notice comply with statutory requirements?
 - Has the statutory consultation been carried out prior to the publication of the notice?
 - Are the proposals "related" to other published proposals?
42. The statutory proposals were published on 22 October 2012 with information prescribed by regulation and supplemented with significant additional content explicitly outlining the objectives of each school, in bringing the proposals forward. The information was complete, clear and complied with statutory requirements. Evidence that the initial consultation was carried out before the statutory notices were published was provided to the Council and the proposals are not related to each other but are independent and capable of being determined without preventing or undermining the implementation of others in this report.
43. The Department for Education guidance for decision makers is issued by the Secretary of State and contains a number of key factors to be considered when they make a decision on proposals of this nature. The guidance is clear that these factors should not be taken to be exhaustive and all proposals should be considered on their individual merits. The following sections therefore focus on the factors most relevant to these proposals but should be considered alongside each school's objectives and the consultation responses outlined in Appendices A & B.
44. A system shaped by parents – The findings of the initial consultation indicated significant support and parental demand for the proposed change in age ranges at each of the schools.
45. Standards – The key driving objective of these proposals is to raise standards and to improve outcomes for young people, particularly at Key Stage 2. Both proposals seek to promote the benefit gained from the stability, consistency and continuity for children throughout their primary years, through each school's ethos, curriculum, teaching and learning organisation. Each school believes that conversion to Primary Schools will be of benefit in raising the attainment of all pupils in particular by removing the disruption of a school transfer at the end of year 4.
46. Diversity - The proposal enables the Council to meet its statutory duty to secure diversity of provision in school places and to increase opportunities for parental choice for those who favour a primary age range. The proposed change to St Mary's Catholic VA Lower School also reflects greater choice for those parents who seek Catholic provision for their children throughout key stages 1 and 2. The supply of school places for those seeking Catholic Primary school provision is significantly under represented in Central Bedfordshire when viewed against the rest of England.

47. Every Child Matters – Each of the proposals are clear that achieving the five outcomes for Every Child Matters is central to the schools ethos with wrap around care, support for families and a wide range of extended services that are achieved by working in partnership.
48. Equal opportunity issues – Each of the schools has carefully considered these issues and the impact on provision for children with special educational needs and disabilities in their proposal documents that have been publicised with the statutory notices. Similarly each school has made a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of their local communities, while ensuring that such opportunities are open to all.
49. Need for places – The Council's School Organisation Plan is refreshed on an annual basis to take account of the supply and demand for school places. It is informed by data on school capacity and forecasts of pupil numbers as a result of changes in birth rate, housing development and parental preferences.
50. The pattern of provision in Central Bedfordshire is also reflected in the Plan and while it is traditionally a three tier area of lower, middle and upper schools it also now has a number of primary schools, a middle deemed primary serving the 5-13 age range, one secondary school and a University Technical College serving the 14-19 age range.
51. The pattern of provision in the Houghton Regis area is subject to significant change as a result of previous Council and Department for Education decisions to change existing age ranges in a number of schools, fundamentally towards a more traditional primary/secondary pattern of provision.
52. Houghton Regis Lower School is in an area of housing growth and the proposal to convert to primary would add new places in the area, in addition to reorganising existing provision. The school is also now in the unique position of serving 3-9 age range whereas all other Houghton Regis Lower will become primaries from September 2013.
53. Houghton Regis Academy is currently consulting to change age ranges and become Secondary. Barnfield Vale Academy has received Department for Education approval on its proposal to become a Primary. The Academy sponsors of Brewers Hill Middle have also indicated an intention to consult on becoming a Primary. These were historically all of Houghton Regis Lower's natural feeder middle schools and the changes will disrupt the transition points for year 5. The approved change in age range at All Saints Academy brings further pressure on the local pattern of provision to align in a primary/secondary model.
54. The Houghton Regis proposal is therefore aligned with those being made currently by the Academies in the area and will ensure a coherent pattern of primary and secondary provision and transition for the pupils in these schools. It also provides the Council with a clearer basis for strategic planning to meet the demand of planned local housing growth in the north Houghton Regis area.

55. The proposal to change the age range at St Mary's Catholic VA Lower School will add places to the system that are not required as a result of demographic growth but are responding to significant parental demand. This will undoubtedly add to the existence of surplus places in the system although the decision makers guidance is clear that where proposals will add to surplus capacity, but there is a strong case for approval on parental preference and standards grounds, the presumption should be for approval.
56. Travel and Accessibility for all – Section 76 of the Education and Inspections Act 2006 places a duty on local education authorities to promote the use of sustainable modes of travel to meet the school travel needs of their area.
57. Whilst there may be an increase in the total numbers of children travelling to both of the schools subject of these proposals, this will be matched by a corresponding reduction in journeys to the current receiver middle school. Similarly in the past year with local housing development, Houghton Regis Lower School has started to increase admissions from its own catchment area hence the majority of increased traffic would be expected to be pedestrian.
58. Both of the schools concerned already has an approved travel plan which will be updated if the proposals are approved to reflect the changes that will be made and to outline the actions they will be taking to encourage sustainable travel and to ensure any negative travel and transport issues are minimised. The Council's sustainable transport team are able to help support this review process and provide guidance as to the actions that should be put in place. An updated travel plan will also be required in due course to accompany the planning application for the physical expansion of Houghton Regis Lower School.
58. Funding and land – Capital costs have been identified to implement the Houghton Regis Lower School proposal. The Governing Body of the school has committed to fund a significant proportion of the required expansion which will be supplemented by a loan of £80k agreed between the Council and the school's Governing Body, established under terms and conditions set out in the Scheme for Financing Schools. A similar loan scheme is to be extended to all Council maintained schools, funded as part of the Scheme for Financing Schools from school balances held by the Council. Neither of the proposals are reliant on capital receipts, new sites or playing fields and there are no land tenure issues arising from these proposals.
60. Houghton Regis Lower School is in an area of housing growth and although no guarantee could be given of a future S106 contribution there is a strong likelihood of a future allocation given that a Section 106 agreement is in place, which is yet to reach a trigger point to release funds to the LA.
61. The Governing Body of St Mary's Catholic VA Lower School has budgeted for some minor internal renovation and the provision of additional playground space estimated at £37k. St Mary's is a Voluntary Aided school and may also seek any capital it requires through the Locally Controlled Voluntary Aided Programme (LCVAP) with the support of the Diocese.

62. Special educational needs provision – Each of the schools subject of these proposals, already support children with special educational needs attending their local mainstream school. While there are no proposals to establish new specialist provision or to change existing, each of the schools believe that current provision and practice for special educational needs, vulnerable and looked after children and for children with disabilities is good and will be enhanced by the proposal.
63. In expanding age ranges, delivering the whole of the primary curriculum and retaining children through to the end of year 6 the schools believe that all learners will be better supported since many children find it difficult to adapt to the disruption of a larger school, different organisation and different approaches to teaching and learning.
64. Views of interested parties – The Department for Education guidance is clear that the decision maker should consider the views expressed during the initial consultation and the statutory representation period, following publication of the statutory public notices. In doing so he should not simply take account of the numbers of respondents expressing a particular view but instead give the greatest weight to representations from stakeholders likely to be most directly affected by the proposals.
65. The analysis of the responses to the initial consultation is attached with the Statutory Notices for each school at Appendices A & B. Each of these Appendices is structured to provide:

The school's original proposal and consultation document
A report of responses received and the outcome of the initial consultation
The Statutory Notice of the full proposal and representation period, and
The prescribed information which accompanied the Statutory Notices.

66. A significant majority of responses to the initial consultation for both schools were positive with overwhelming support from parents and carers.

Concerns were raised by a limited number of schools at the potential to disrupt the pattern of three tier education provision in relation to the proposal made by St Mary's Catholic VA Lower School. The response of the Governing Body to issues raised in the initial consultation is clearly set out within its consultation report on pages 11 to 13 of Appendix B.

67. However, there is the precedence set elsewhere within the locality of a Catholic Primary School (St Vincent's RC VA in Houghton Regis), which the Council has previously accepted and which currently sits within an otherwise 3 tier area. Parents and carers of children who attend this school seek denominational places within a Secondary School in neighbouring Luton Borough at the end of Year 6 or seek places elsewhere, where these are available, within the local 3 tier schools at the end of Year 4 or 6.
68. If the proposal is approved, this choice will also be available to parents and carers of children at St Marys Catholic VA Lower. Therefore, to consider rejection simply based on a mismatch of pattern of school provision could, in this instance, be regarded as being discriminatory.

69. Six responses were received within the formal 6 week representation period, all relating to the St Mary's proposal. These are attached at Appendix C. Attached at Appendix D is the response of the school's Governing Body to the issues raised.
70. Overall, the consultation outcomes indicate that there is significant support for the proposals to extend the age range of the two schools in this report.

Decision

71. In considering the proposals the decision maker may decide to reject, approve or to approve with modifications (e.g. the implementation date) the proposals set out in this report. In either case, the reasons for the final decision must be carefully recorded indicating the main factors considered and the reasons for the decision. A copy of the final decision must be forwarded to a range of bodies specified in guidance.
72. Whilst the decision on Houghton Regis Lower School will be binding as it is a Community School, there is provision within the legislation for the Governing Body or Diocese to appeal the decision in connection with St Mary's Catholic VA Lower School by reference to the Office of the School Adjudicator.
73. Having followed the procedure required by regulation and in consideration of the key issues and factors for decision makers set out in guidance it is recommended that the proposals to extend age ranges at the two schools as set out in this report and published by Statutory Notices issued on 22 October 2012, be approved with an implementation date of 1 September 2013.

Appendices:

Appendix A Consultation document, Report on outcome of initial consultation, Statutory Notices and prescribed information for Houghton Regis Lower School
Appendix B Consultation document, Report on outcome of initial consultation, Statutory Notices and prescribed information for St Mary's Catholic VA Lower School
Appendix C Responses received within the representation period
Appendix D Response from St Mary's Catholic VA Lower School to representations received

Background Papers: (open to public inspection)

None.