

BIRMINGHAM CITY COUNCIL

PUBLIC

Report to: **CABINET MEMBER FOR CHILDREN, FAMILIES AND SCHOOLS JOINTLY WITH THE CORPORATE DIRECTOR FOR CHILDREN AND YOUNG PEOPLE**

Report of: **Assistant Director 14-19 Education Pathways**

Date of Decision: **17th April 2018**

SUBJECT: **PROPOSAL TO CHANGE THE AGE RANGE OF ST BENEDICT'S INFANT SCHOOL (A LOCAL AUTHORITY MAINTAINED SCHOOL)**

Key Decision: No **Relevant Forward Plan Ref:**

If not in the Forward Plan: **Chief Executive approved** ☐
(please "X" box) **O&S Chair approved** ☐

Relevant Cabinet Member(s) or Relevant Executive Member: **Councillor Carl Rice, Cabinet Member Children, Families and Schools**

Relevant O&S Chair: **Councillor Susan Barnett, Schools, Children and Families**

Wards affected: **Bordesley Green**

1. Purpose of report:

1.1 To seek the determination of the statutory proposal to:

- Change the upper age limit from 7 years old to 11 years old; so change the age range from 3 to 7 years old to 3 to 11 years old.
- Enable the school to become a primary school with both key stage 1 (infant) and key stage 2 (junior) phases; and with capacity for 420 pupils (currently 450).

2. Decision(s) recommended:

That the Cabinet Member for Children, Families and Schools jointly with the Corporate Director for Children and Young People:

- 2.1 Approve, having taken account of the statutory guidance, the statutory proposal to change the age range of St Benedict's Infant School to 3 to 11 years old, thereby adding junior school provision with effect from 1 September 2018 .**

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3. Consultation:

3.1 Internal

3.1.1 During the pre-statutory and statutory consultation periods, information about the proposal was sent to the Executive Member for Hodge Hill and Ward Councillors for Bordesley Green together with a number of officers from services across Birmingham City Council including Admissions, Finance, Education Infrastructure, School and Governor Support, Human Resources, Legal, Planning, Research and Statistics Information Officers for Children and Young People, District Engineers and Education Transport. The information was sent by email. Details of the responses received and outcome of the internal consultation is set out in Section 5 of this Report and in Appendix 3 to this Report. The names of the Ward Councillors and the date and method of consultation is set out in Appendix 5 to this report.

3.2 External

3.2.1 The proposal has been fully consulted upon in line with the requirements set out in the statutory guidance “Making ‘prescribed alterations’ to maintained schools – statutory guidance for proposers and decision-makers” published by the Department for Education (DfE) in April 2016. A copy of the guidance for decision makers can be found in Appendix 4.

3.2.2 During the pre-statutory consultation period, information about the proposal was publicised to the parents, teaching staff, non-teaching staff, governors of St Benedict’s Infant School and the Member of Parliament for Hodge Hill. During the statutory consultation period, information about the proposal was publicised to all stakeholders consulted during the pre-statutory period and the following additional consultees:

- Birmingham Schools;
- Neighbouring Local Authorities;
- The Archdiocesan and The Anglican Diocese of Birmingham;
- Professional Associations and Trade unions

3.2.3 The information was publicised in the following ways:

- Public notice displayed at the school;
- On the school’s webpages;
- Public notice in Birmingham Post newspaper;
- On Birmingham City Council BeHeard webpage;
- On the Birmingham City Council School Notice Board.

3.2.4 A copy of the full proposal document can be found in Appendix 1 and the Public Notice in Appendix 2. The outcome of the external consultation is set out in Section 5 of this Report and in Appendix 3.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council’s policies, plans and strategies?

4.1.1 Once implemented, these proposals will support the Local Authority to meet its statutory duty to provide pupil places and to promote diversity and increase parental choice in planning and securing provision of school places (Section 14 Education Act 1996 and Education & Inspections Act 2006). The proposal for St Benedict’s School falls in line with the basic need programme by providing long term stability through becoming a

primary school, removing surplus places created in the area by the Perry Beeches V Free School, whilst ensuring provision of sufficient school places for local pupils and their families.

4.2 Financial Implications

- 4.2.1 Some adaptations will be needed to accommodate key stage 2 pupils. Feasibility will be undertaken to develop the refurbishment/reconfiguration scheme in line with building bulletin guidelines. The costs for the scheme will be based on the agreed square metre rates in line with new build and refurbishment projects currently being delivered under the APP6, 7 and 8 schemes. This will ensure value for money.
- 4.2.2 The current Capital Programme has an allocation for the development costs of schemes. This will enable the development of the project and for delivery costs to be established. The capital cost of the proposed refurbishment/remodelling works at St Benedict's Infant School will be funded from the Department for Education (DfE) Basic Need Grant, APP9 – Stage 6, for which Full Business Case approval will be required.
- 4.2.3 Any consequential revenue costs arising from the reconfiguration, including staffing and any on-going or day-to-day repair and maintenance of the asset, will be the responsibility of St Benedict's Infant School and funded from the school's delegated budget.

4.3 Legal Implications

- 4.3.1 This report exercises powers contained within sections 19 and 21 of the Education and Inspections Act 2006; and, Schedule 2 and Schedule 3 to the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the "Prescribed Alterations Regulations"), by which the Local Authority has the power to make statutory proposals affecting schools in its area and to determine them.

4.4 Public Sector Equality Duty

- 4.4.1 An updated Equality Assessment initial screening was carried out in December 2013 against the School Organisation Change process, which identified that a full impact assessment was not required. No events have occurred since then which would require the preparation of a fresh screening in respect of these recommendations.

5. Relevant background / chronology of key events:

- 5.1 The Local Authority has a statutory duty to provide pupil places and to secure diversity in the provision of schools and increase opportunities for parental choice (Section 14(3A) Education Act 1996 and Education & Inspections Act 2006).
- 5.2 St Benedict's Infant School is a Local Authority Maintained school (Community School). The school has the capacity to accommodate 450 pupils (excluding nursery) from age 3 – 11, currently there are 298 pupils on roll due to overprovision in the area.
- 5.3 Up until September 2017, St Benedict's Infant School had an admission number of 150 in Reception. The school have experienced falling rolls in recent years, due to falling birth rates in the area and the opening of the Perry Beeches V all through free school (age range 4 – 16 years) within 0.5km from St Benedict's Infant School. Falling rolls and unfilled places have placed the school at risk of financial unviability. For schools operating with a large number of unfilled places there can be a risk that they become financially unviable. If a school has a financial deficit, this can impact on staffing, standards and attainment; and, ultimately, the future of the school. In order to support the school and enable them to manage their resources, Birmingham City Council, as the

Local Authority, with the full support of the Governing Body, submitted a request to the Office of the School's Adjudicator for a variation to the admission number from 150 to 120 for September 2017 and from 150 to 60 from September 2018. This was approved in August 2017.

- 5.4 The prescribed changes that are being proposed at St Benedict's Infant School will effectively change the school from a five form entry infant school to a two form entry primary school for pupils from Reception to Year 6. Pupils would no longer have to transfer to another school at Year 3. The published admission number (PAN) for Reception will be 60 and the capacity of the school, over time, will be 420.
- 5.5 The school have also changed their admission arrangements for September 2019 by removing the link to Ark Chamberlain Primary Academy, this change to St Benedict's Infant school formed part of the Local Authority's consultation into the proposed admission arrangements for community and voluntary controlled schools for September 2019/2020, which ran from 11th December 2017 to 22nd January 2018 and was determined on 28th February 2018.
- 5.6 Ark Chamberlain Primary Academy has received approval from the Regional Schools Commissioner to amalgamate with Perry Beeches V School with effect from 1st September 2018. The newly amalgamated school will be known as Ark Victoria School. The newly amalgamated school will have an age range of 3 – 19 years with an admission number of 120 in Reception. This means that Ark Victoria will not be able to admit any pupils from St Benedict's Infant School as the current Y2 pupils at Perry Beeches V will form the Y3 cohort at the newly formed Ark Victoria School.
- 5.7 All of St Benedict's Year 2 pupils have been offered school places for Year 3 in September 2018 (on National offer day 16th April) but these are not in line with parental preferences. If these proposals are approved, St Benedict's School will be writing to all parents of Year 2 pupils giving them the option to remain at St Benedict's from 1st September 2018.
- 5.8 In order to become an all through primary school some refurbishment, additional space and internal reconfiguration work will be required. There is currently sufficient available space at the school to accommodate Year 3 pupils in September 2018 without the need for planning permission. Further remodelling work will be required to accommodate future cohorts. There will also be a requirement for flexible additional space, as the larger cohorts work their way through the school as there will potentially be a peak in the pupil population from 2020 – 2022 when the number of classrooms required could increase to 19 in 2021. The Education Infrastructure Capital Team will manage this project and this will be funded from the Department for Education (DfE) Basic Need Grant, APP 9 - Stage 6.
- 5.9 It is proposed that by 2022 the school will become an all through 2 form entry primary school as all the cohorts will have worked their way through the school. The capacity of the school at this time will be 420.
- 5.10 In compliance with DfE guidance and best-practice, a pre-statutory consultation was completed for the proposal between 15th January 2018 and 9th February 2018 (four weeks) to engage stakeholders before statutory publication of the full proposal (as set out in section 3 of this report). A total number of 213 responses were received during the pre- statutory consultation phase of which 209 were in favour and 4 didn't know. In addition a walk in / drop in consultation event was held for staff and parents on 18th January 2018. An analysis of the pre-statutory consultation responses can be found in the full proposal document in Appendix 1.

- 5.11 In compliance with DFE guidance, a statutory consultation was completed between 27th February 2018 and 27th March 2018 (four weeks). The statutory consultation (representation period) commenced with a statutory notice for the change to the age range of St Benedict's Infant School being published on 27th February 2018. During the four week representation period, comments on the proposal could be submitted in writing to Education Infrastructure or the school, via the BeHeard webpages, email or letter. A copy of the full proposal and public notice can be found within Appendices 1 & 2.
- 5.12 At the close of the statutory consultation (representation period) 2 comments were received regarding the proposals to change the age range of St Benedict's Infant School. The two responses were from local residents and copies of their comments are in Appendix 3 of this report.
- 5.13 Regulation 7 of the Prescribed Alterations Regulations provides that the Local Authority must have regard to any guidance issued by the Secretary of State when making a decision on such proposals. The relevant extract of the statutory guidance is attached at Appendix 4. Paragraph 5 of Schedule 3 to the Prescribed Alterations Regulations allows for the proposals to be approved, approved with modification, approved subject to meeting a prescribed condition, or rejected.

6. Evaluation of alternative option(s):

- 6.1 Should the proposals be rejected, St Benedict's Infant School would remain as an infant school. The school may be at risk of becoming financially unviable as numbers on roll will continue to reduce due to falling birth rate and the overprovision of KS1 places in the area. If rejected it would also result in a shortfall of junior places as the link junior school Ark Chamberlain will no longer exist. An alternative junior school would need to be identified to become St Benedict's linked junior school. This may mean that going forward some children in the area will be unable to secure a place at a local school at Year 3 and therefore have to travel some distance to an alternative school. There is a risk that by failing to implement this proposal, the Local Authority would fail in its statutory duty to provide sufficient school places.
- 6.2 The consequences for the Local Authority failing to provide sufficient school places are potentially severe and could lead to significant financial costs. Parents could pursue a judicial review, at which the LA could be liable for its own and the parents' legal costs. Parents can also make a complaint to the Local Government Ombudsman (LGO). The LGO could recommend financial compensation to be paid to parents whose children cannot be offered a school place.

7. Reasons for Decision(s):

- 7.1 To enable St Benedict's Infant School to become a primary school with an age range of 3 - 11 years, offering both Key Stage 1 (infant) and Key Stage 2 (Junior) places. This will allow the pupils to remain at the school until the age of 11 therefore giving the school greater stability and allow them to plan over a longer period of time. The pupils will not have to transfer to a different school at Key Stage 2.
- 7.2 To ensure the Local Authority is able to meet its statutory duty to provide all Birmingham pupils of compulsory school age with a school place, and ensure that local residents have access to a local school for their children.

Signatures

Date

Cabinet Member, Children, Families and Schools
Cllr Carl Rice

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Corporate Director for Children and Young People
Colin Diamond

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List of Background Documents used to compile this Report:

1. Education and Inspections Act 2006
2. Making prescribed alterations to maintained schools: "Statutory guidance for proposers and decision makers" published by the Department for Education (DfE) in April 2016.

List of Appendices accompanying this Report (if any):

1. Appendix 1: Full (Final) proposal document
2. Appendix 2: Public Notice
3. Appendix 3: Consultation responses and Analysis
4. Appendix 4: School Organisation Guidance
5. Appendix 5: Ward Councillors Consulted