



## **PAPER B**

Purpose: For Decision

# Committee report

Committee	<b>CABINET</b>
Date	<b>10 OCTOBER 2019</b>
Title	<b>WEST WIGHT SCHOOL PLACE PLANNING UPDATE</b>
Report of / to	<b>CABINET MEMBER FOR CHILDREN'S SERVICES, EDUCATION AND SKILLS</b>

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### EXECUTIVE SUMMARY

1. On the 11 July 2019 Cabinet agreed, subject to the outcomes of a statutory consultation process, to close All Saints' CE Primary School with effect from 3 April 2020, to temporarily expand Yarmouth CE Primary School (if required) and to relocate Yarmouth CE Primary School to the former All Saints' CE Primary School site. Through funding from the Department for Education, this site is proposed to be substantially refurbished to provide a modern, vibrant set of buildings providing the technologies and other facilities required to support a quality learning environment.
2. Subsequently, the council suspended the formal public consultation on this process in order to further review its position about how best to resolve the issue of having too many schools for the number of children living in the West Wight. This followed the receipt of a judicial review pre-action letter, which challenged the council's power to implement all of the elements of this approach.
3. This paper sets out the results of that review and concludes that following dialogue with the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth and Portsmouth and Winchester CE Diocese that the council's original approach as set-out in paragraph 1 above remains the best option to achieve its objectives.
4. Following the receipt of a proposal to relocate to the Freshwater site from the Governing Body of the Federation of the Church Schools of Shalfleet and Yarmouth (Appendix 1), supported by the Portsmouth and Winchester CE Diocese (Appendix 2), this report recommends:

- (a) that a Public Notice be published in accordance with Section 15 of the Education and Inspection Act 2006 to discontinue All Saints' Church of England Primary School with effect from 31 August 2020 and;
  - (b) officers support the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth to undertake a period of consultation on the relocation of Yarmouth CE Primary School to the Freshwater site for the start of the 2021 academic year.
  - (c) a further report be brought to Cabinet in January 2020 to:
    - approve the outcome of the Public Notice period on the closure of All Saints' CE Primary School and;
    - consider the implications of the outcome of the consultation on the relocation of Yarmouth CE Primary School.
5. The local authority is the final decision maker in relation to the closure of All Saints' CE School, while the decision in relation to relocation is to be taken by the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth.
  6. The recommendation in this report ensures that the longer-term educational needs of West Wight children are kept at the heart of the council's decision making. It confirms that five primary schools on the West Wight are not sustainable; forecast numbers make that very clear. Freshwater is the primary settlement where the majority of children live and therefore the best place to site a well led high performing primary school. In contrast, Yarmouth contains very few children of primary school age. This approach also attracts a large capital investment into the West Wight community to secure modern buildings which will last for generations to come.

## BACKGROUND

7. The five schools that make up the West Wight School Place Planning Area (SPPA) are All Saints' CE Primary, Shalfleet CE Primary, Yarmouth CE Primary, Brighstone CE Primary and St Saviour's Catholic Primary have the capacity to offer 119 places at Year R. Over recent years surplus capacity across the five schools has been steady at around 30 places, approximately 25%. However, it is forecast that for 2021 the surplus is expected to reach 56 places or 47%.
8. Pupil numbers in the West Wight only require 90 of the 119 school places per year group that are currently available across the five schools. The continuing decline in pupil numbers will mean that going forward a position could be reached where only 60 places per year group would be required to meet demand. This would not require five schools. School funding is primarily linked to pupil numbers therefore, any decline in numbers will have a negative impact on school budgets, which will impact on the quality of teaching and learning on offer.
9. Over the past six months the local authority has undertaken two periods of

public consultation on how to achieve a reduction in the number of primary school places on the West Wight:

- The initial consultation, 4 March 2019 to 15 April 2019 focused on a preferred option of 'The closure of All Saints' CE Primary School and expansion of St Saviour's Catholic Primary School to one form of entry (FE)'. This period of consultation considered the alternate options and views put forward of the registered parents of registered pupils, the relevant parish council and all other persons as appeared appropriate to consult.
  - Having fully considered the outcome of this consultation, including views raised by consultees, a second period of consultation was approved and undertaken between 14 May 2019 and 11 June 2019. This set-out a new preferred option of 'The closure of All Saints' CE Primary School, expansion of Yarmouth CE Primary School (if required) and its subsequent relocation to the All Saints' site'.
10. On 11 July 2019 Cabinet approved the commencement of a further phase of consultation (public notice period) from 19 July 2019 to 20 September 2019. The public notice set-out the council's intention to:
- close All Saints' CE Primary School with effect from 3 April 2020,
  - temporarily increase (if required) the capacity of Yarmouth CE Primary School,
  - relocate Yarmouth CE Primary School to the All Saints' site following investment through the Department for Education (DfE) Priority Schools Building Programme (PSBP2).
11. The intended outcomes of the above strategy were to:
- Reduce the number of schools serving West Wight from five to four. Data for the area currently shows there are around 90 pupils in a year group which is forecast to fall to approximately 60 pupils in a year group. Having five schools is an inefficient use of limited available resource, reducing this to four schools would provide greater financial stability to those remaining;
  - Reduce the number of surplus places in the West Wight;
  - Place the four remaining schools in the locations with the highest density of children living in the local communities;
  - Secure the multi-million pound investment from DfE at the Freshwater site to create a modern school in attractive buildings;
  - Continue the focus on school improvement leading to high quality outcomes for all pupils in the West Wight;
  - Create a solid foundation for future school place planning requirements and;
  - Reduce the need for Freshwater children to be driven to schools outside of Freshwater.
12. On 22 July 2019 the council received a judicial review pre-action letter seeking the withdrawal of the public notice it issued on 19 July 2019. The council confirmed the withdrawal of the public notice on 31 July 2019. The basis of that letter being that the council has no powers to relocate a voluntary aided school. It is to be noted the council had, at the point of challenge, still not come to a final decision on the best way forward and was awaiting the final outcome of

that consultation before making its decision.

13. The council had extended the public notice consultation period from the minimum four to nine weeks in order to provide sufficient time for all stakeholders, including the Governing Body of the Federation of the Church Schools of Shalfleet and Yarmouth, to make their views known before it came to a final decision about the surplus primary school places in the West Wight. However, given the receipt of the letter before action, it was felt prudent to end the representation period and reconsider all the options available. This also avoided the need to use potentially significant public resources defending the council's position through a legal process that would be better spent on providing for pupils in the education system.
14. It is to be noted however that this approach has introduced further uncertainty about the future provision of primary school places in the West Wight, which the council must seek to resolve as soon as possible and in the best way for the benefit of the current and future primary school pupils in the area.
15. The council has been working with the DfE on a programme of capital investment (PSBP2) that has sought to address some of the highest priority condition issues in the Island's schools. All Saints' CE Primary School in Freshwater is a site that, at the outset of this programme, was recognised as a location for investment.
16. Work continues to develop a scheme that will best address the identified building needs on the Freshwater site. While at this point it is not possible to provide a definitive outcome from this work it is expected that investment in the site if taken forward will be several million pounds and will create a modern high-quality education facility that meets the needs of West Wight pupils for many years to come.
17. The council has limited financial resources to invest in the maintenance of the schools' estate. Up to as much as £2 million ideally needs to be invested across the five West Wight primary schools. The investment of new funds from the DfE would release some of the financial burden and help the council target its limited resources to the areas of greatest need. Further to this significant benefit, it also delivers wider employment and business opportunities for the Island.
18. The withdrawal of the public notice following the letter before action, required that the council reconsiders how it could best achieve its intended outcomes in addressing the number of primary school places in the West Wight ensuring that the focus is on the achievements of the pupils and not the location of buildings.

## **STRATEGIC CONTEXT**

19. The recommendations set out in paragraph 4 promotes the long term raising of educational achievement as pupils would be educated in 21<sup>st</sup> century buildings more suited to modern teaching and learning. Raising educational achievement is a priority of the council as set out in the council's Corporate Plan and Education Strategy Document "Delivering Educational Excellence".

## OPTIONS

20. To achieve the intended outcomes, namely reducing five schools to four and thereby addressing the surplus primary school places in the West Wight, the following options are considered by the council to be viable:
  - (a) To close All Saints' CE Primary School on the understanding that the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth will propose the relocation of Yarmouth CE Primary School to the Freshwater site supported by Portsmouth and Winchester CE Diocese and subject to the completion of a period of consultation.
  - (b) To close Yarmouth CE Primary School and to maintain All Saints' CE Primary School; subject to further periods of consultation.
  - (c) To close Yarmouth CE Primary School and All Saints' CE Primary School and to open a new academy on the Freshwater site subject to further periods of consultation.

## CONSULTATION

21. The council, as set out in this report, has already undertaken in March 2019 a period of pre-publication public consultation preceding the publication of a statutory notice, which considered the closure of All Saints' CE Primary school, the expansion of St Saviour's Catholic Primary School, and asked consultees to submit further viable proposals to be considered.
22. A second period of pre-publication public consultation was undertaken in May 2019, which considered the closure of All Saints' CE Primary School and the expansion (if required) and future relocation of Yarmouth CE Primary School to the Freshwater site.
23. There has been extensive consultation that has taken place which has been wide ranging with all options being subject to public debate. If the recommendation/s are agreed by Cabinet, this would trigger a further four-week period of formal consultation following the issuing of a public notice (the representation period) in regard to the discontinuance of All Saints' CE Primary School. A further report in January 2020 will be brought back to Cabinet outlining the outcome of this consultation for a final decision.
24. In addition to the representation period in relation to the proposal to discontinue All Saints' CE Primary School, the council will support the Governing Body of the Federation of the Church Schools of Shalfleet and Yarmouth to undertake a period of consultation on their proposed relocation to the Freshwater site. It should be noted that no statutory guidance exists when moving a school less than two miles.
25. Local members have been consulted in the formulation of this report.

## FINANCIAL / BUDGET IMPLICATIONS

26. The main budgetary consideration would be for the council to work with the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth on their forward budget planning to ensure that children can access a high-quality education. As most funding is determined on a per pupil basis, the school's budget share would be enhanced due to any increased numbers on roll following the closure of All Saints' CE Primary.
27. At the point of closure any deficit sitting with All Saints' CE Primary would be transferred to the council as a liability. It would not in any way be passed on to Yarmouth CE Primary School. The local authority is working closely with All Saints CE Primary currently, to work through reducing the existing deficit to minimise the risk to the authority.

## HR IMPLICATIONS

28. Staffing implications will be considered subject to the outcome of the consultations. This will be done in accordance with the council's and School's Restructuring, Redundancy and Redeployment Policy, including a duty to consult with those staff potentially affected by any proposed closure or transfer. Details of staff consultations will be set out, including the timetable for formal consultation with staff and unions. TUPE implications will also be considered at this point.

## CARBON EMISSIONS

29. The recommendations set out in this report would ensure the four remaining schools in the West Wight are located within the communities with the highest density of pupil population therefore negating the need for unnecessary car journeys.

## RURAL SCHOOLS

30. Guidance states that the council should adopt a presumption against the closure of rural schools. However, this does not mean that a rural school will never close, but the case for closure should be strong and a proposal must be clearly in the best interests of educational provision in the area
31. When producing a proposal to close a rural primary school, the proposer must consider:
  - the likely effect of the closure of the school on the local community; the closure of All Saints' School will be mitigated by the relocation of Yarmouth CE Primary School on to the All Saints' site following significant investment in to the site by the DfE. From September 2021 Yarmouth CE Primary School will be fully operational on the Freshwater site, providing a range of community opportunities.
  - the proportions of pupils attending the school from within the local community i.e. is the school being used by the local community; All Saints' has not been the school of choice for a significant part of its community for several years, with up to 75% of eligible pupils attending other schools. It is expected that its closure and subsequent relocation of Yarmouth CE Primary will reverse this trend.

- education standards at the school and the likely effect on standards at neighbouring schools; education standards at the school have not been good in recent years. Its proposed closure will have no impact on standards at neighbouring schools.
- the availability, and likely cost to the local authority, of transport to other schools; the closure of All Saints' could incur some short-term additional transport costs for the local authority. It is expected these costs would dissipate over time.
- Whether the school is now surplus to requirements (e.g. because there are surplus places elsewhere in the local area which can accommodate displaced pupils, and there is no predicted demand for the school in the medium to long term); There is significant surplus provision in the existing five West Wight schools. Even with proposed closure of All Saints' there will still be a level of surplus provision in the remaining four schools, but the remaining schools will be in the main centres of population.
- any increase in the use of the motor vehicle which is likely to result from the closure of the school, and the likely effects of any such increase; Currently many families from Freshwater travel away from the area for their educational needs. The closure of All Saints' and subsequent relocation of Yarmouth CE Primary School will reduce this trend therefore, decreasing the overall use of the motor vehicle for the school run.
- any alternative to the closure of the school; The local authority believes the closure of All Saints' school provides the best opportunity to stabilise the educational offer on the West Wight. Forecast pupil numbers cannot support five schools currently or going forward and, it is possible that future intervention may be needed to reduce overall school numbers further in the area. Numerous alternate options have also been looked at by the council and are set-out in detail in the previous West Wight reports.

## LEGAL IMPLICATIONS

32. The council has the power to make a proposal to close a maintained school under the *Education and Improvement Act 2006*, in conjunction with the *School Organisation (Establishment and Discontinuance of Schools) Regulations 2013*. The council is required to have regard to statutory guidance issued by the DfE when deciding whether a maintained school should close. The relevant statutory guidance is the "*Opening and Closing of Maintained Schools*" dated November 2018 and "*The making significant changes (prescribed alterations) to maintained schools*" dated October 2018.
33. In deciding to discontinue a maintained school, the Council must 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 Council should take into account the overall quality of alternative places in the local area and the popularity of other local schools.
34. The local authority is empowered to propose the closure of all categories of maintained school. Where the local authority does make such a proposal it is also decision maker. A right of appeal to the Schools Adjudicator is in place, this enables the relevant diocese, school governing body or trustees to contest

the decision taken by the local authority. There is no right of appeal on determinations made by the Schools Adjudicator.

35. While the council intends to support the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth in relocating Yarmouth CE Primary School to the Freshwater site, it must be mindful that there is no general principle that a local authority can give direction to a voluntary aided school as to how it should perform its functions; to do so, a specific power must be identified. No such power exists for relocation under two miles and therefore this decision must be made by the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth. No statutory proposal is required from the Governing Body as long as the relocation is less than two miles as such a move is not a 'prescribed alteration'.

### EQUALITY AND DIVERSITY

36. The council as a public body is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or believe, sex and sexual orientation.
37. The proposals being put forward by the council in this report; the closure of All Saints' CE Primary School and supporting the proposal by the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth to relocate Yarmouth CE Primary School will not have a negative impact on equality and diversity.
38. The policies of the council and the Governing Body of the Federation of the Church Schools of Shalfleet and Yarmouth in relation to equal opportunities and eliminating discrimination will continue to apply should the proposed changes be approved.
39. Council officers will work closely with the headteacher and governing body to assess and support students and their families / carers of both schools should the proposed changes be approved.
40. An Equality Impact Assessment (EIA) has been undertaken and is appended with this report.

### PROPERTY IMPLICATIONS

41. The recommendations in this report would bring significant external investment into the schools' estate via the government's PSBP2. This level of investment would not be achievable through any other mechanism currently.
42. By bringing this level of investment into the schools' estate on the West Wight it provides some opportunity to re-direct future capital resources to deal with other known maintenance liabilities.



43. Opportunities would also become available around the future use of the Yarmouth site. This would need to be discussed between the council and Portsmouth and Winchester CE Diocese as freehold owners and the wider Yarmouth community in order to ensure its full potential is explored and understood.

## IMPLEMENTATION

44. Two implementation groups will be formed to take forward the recommendations in this report following the statutory public notice and representation period and final approval by Cabinet being given.
45. The first implementation group will work with the governors and headteacher at All Saints' CE Primary to ensure that the closure of the school is carefully overseen. It will meet monthly or more regularly if required. It will be chaired by a senior education and inclusion officer. Representatives will include but not be limited to governors, headteacher, diocese and local authority officers with relevant expertise in HR, property, finance and school improvement. The group will ensure that the risks associated with the final recommendation are identified, managed and fully mitigated where possible. The group will primarily focus on:
- the wellbeing of all pupils and their families affected by the recommendations in this report;
  - ensuring the highest quality of education in the lead up to the school's closure;
  - ensuring any transition of pupils is as seamless as possible and any disruption to education is minimised;
  - the support of all staff;
  - regularly updating parents and other stakeholders;
  - the financial, property and asset management implications of the closure.
46. The second implementation group will work with the head teacher and governing body of The Federation of the Church Schools of Shalfleet and Yarmouth to ensure that all impacts of the proposed relocation of Yarmouth CE Primary School are carefully overseen. Representatives will include but not be limited to governors, headteacher, diocese and local authority officers with relevant expertise in HR, property, finance and school improvement. Many of the decisions that need to be taken if the final recommendations are approved will be for the Governing Body to decide after taking professional advice from the headteacher. The aim of the implementation group will be to ensure that the school has access to the highest quality advice when arriving at those decisions. The local authority will work closely with the governing body to ensure the decision is implemented carefully with a focus on:
- the wellbeing of all pupils and their families impacted by the recommendations in this report;
  - ensuring induction arrangements for children being admitted to Yarmouth CE Primary so that the children feel fully integrated;

- ensuring that the highest possible teaching and learning standards are maintained;
- the support of all staff;
- regularly updating parents and other stakeholders;
- looking at accommodation needs in the period leading up to the relocation of Yarmouth CE Primary onto the Freshwater site;
- considering the need for any interim transport needs during the transition period;
- the financial, property and asset management implications of the relocation of Yarmouth CE Primary;

## RISK MANAGEMENT

47. The council has the power to propose the closure of all categories of maintained school. Where the local authority does make such a proposal it is also decision maker. A right of appeal to the schools' adjudicator is in place, this enables the relevant diocese, school governing body or trustees to contest the decision taken by the local authority. There is no right of appeal on determinations made by the Schools Adjudicator. The statutory guidance on school relocation does not apply in the case of the proposal to relocate Yarmouth CE Primary School as the distance is under two miles.
48. The council is clear that the DfE are fully committed to significant capital investment in to the Freshwater site and, continue to work pro-actively with the council to ensure this investment is achieved. If the DfE were to withdraw this investment stream the council would have to seek alternate funding sources internally and externally to enable it to undertake the most critical elements of work required on the site.
49. The council is required to pro-actively and effectively manage surplus capacity and performance across all the schools it is responsible for. Failure to do so in this instance would lead to lost opportunities and continuing uncertainties for all involved:
- As surplus numbers increase over the coming years all five schools will be faced with ever greater financial challenges, potentially leading to job losses and a reduced ability to offer a wide and varied curriculum.
  - Parents, carers, staff and pupils would continue to be faced with uncertainties around the availability and quality of the educational offer on the West Wight.
  - The capital and revenue resources available to the council would not be sufficient to support all five schools.
  - Significant investment in the Freshwater site from DfE would be lost.

The proposed risks set-out above are mitigated by the recommendations in this report. The overall number of schools serving the area is reduced in-line with future need, located where a majority of pupils live and ensure performance and standards can be effectively addressed and continuing uncertainties for the West Wight community removed.

## EVALUATION

50. The current number of primary school places in the West Wight is unsustainable leading to the inefficient use of resources in the area. If used more effectively these resources could be better targeted to improving the educational outcomes of the local children rather than maintaining the schools' estate which provides for and maintains the oversupply of places. The council must look to the needs of the West Wight's children, not only now, but also long into the future in coming to its final decision about how to address the oversupply of places.
51. The recommendations set out in this report are felt to provide the best opportunity to secure long term educational improvement and financial stability for West Wight families and schools. Following the threat of legal action and the withdrawal of the public notice issued by the council on the 19 July, progress on this matter has been frustrated. It is now felt that in order to secure the well managed closure of All Saints' and relocation of Yarmouth CE Primary School, that All Saints' should be closed from the 31 August 2020 and Yarmouth CE Primary School be fully relocated to the vacated site for the start of the 2021 academic year.
52. Officers from the Local Authority met with the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth on the 22 August 2019 and asked that they consider proposing and progressing the relocation of Yarmouth CE Primary School. The subsequent proposal of the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth to relocate Yarmouth CE Primary School to the Freshwater site, subject to consultation, ensures primary provision with strong and proven leadership is secured within the most densely populated area of West Wight. This proposal is fully supported by the council and the diocese.
53. Now that a proposal for relocation has been put forward by the governing body, the limited guidance that covers school relocations can be followed.
54. The recommendations in this report keep the longer-term educational needs of West Wight children at the heart of its decision making. Five primary schools on the West Wight cannot be sustained; forecast numbers make that very clear. Freshwater is the primary settlement where the majority of children live and therefore the best place to site a well led high performing primary school. In contrast Yarmouth contains very few children of primary school age. This option also attracts a large capital investment into the West Wight community to secure modern buildings which will last for generations to come.

## **RECOMMENDATIONS**

55. That the Cabinet Member for Children's Services, Education and Skills recommends that the Cabinet approves the following:
- (a) that a Public Notice be published in accordance with Section 15 of the Education and Inspection Act 2006 to discontinue All Saints' Church of England Primary School with effect from 31 August 2020 and;
  - (b) officers support the Governing Body of The Federation of the Church Schools of Shalfleet and Yarmouth to undertake a period of consultation on the relocation of Yarmouth CE Primary School to the Freshwater site for the start of the 2021 academic year.
  - (c) a further report be brought to Cabinet in January 2020 to:
    - approve the outcome of the Public Notice period on the closure of All Saints' CE Primary School and;
    - consider the implications of the outcome of the consultation on the relocation of Yarmouth CE Primary School.

## **APPENDICES ATTACHED**

56. The following appendices are included with this report:

[Appendix 1](#): Letter from the Governing Body of the Yarmouth and Shalfleet Federation

[Appendix 2](#): Letter from the Diocese of Winchester and Portsmouth

[Appendix 3](#): Equality Impact Assessment

## **BACKGROUND PAPERS**

57. The three following reports provide background information:

[01 March 2019 West Wight School Place Planning](#)

[13 May 2019 West Wight School Place Planning \(Consultation Outcomes\)](#)

[11 July 2019 West Wight School Place Planning \(Second Consultation Outcomes\)](#)

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