



Purpose: For Decision

Delegated decision report

CABINET MEMBER DECISION UNDER DELEGATED POWERS

DECISION CANNOT BE TAKEN BEFORE FRIDAY 22 DECEMBER 2017

Title **THE BAY CE PRIMARY SCHOOL, ALTERATION TO THE UPPER AGE LIMIT OF THE SCHOOL**

Report to **CABINET MEMBER FOR CHILDREN'S SERVICES**

EXECUTIVE SUMMARY

1. The purpose of this paper is to seek approval from the Cabinet Member for Children's Services to alter the upper age limit of The Bay Church of England Primary School in order for it to become a 4 – 16 all through school.
2. The Isle of Wight Council unanimously passed a resolution on 17 May 2017 committing the council to securing on-going high quality secondary education provision on the Sandown Bay Academy school site.
3. A ministerial decision was taken in late October to agree to the closure of Sandown Bay Academy with effect from 31 August 2018. This enabled the local authority, The Bay CE Primary School and Church of England Diocese to take forward plans to secure secondary education in the Sandown Bay area. The Bay CE Primary School and Niton Primary School are federated under the leadership of a single governing body and executive headteacher, (The Cornerstone Federation).
4. Following a six week (term time) period of consultation by the council supported by The Bay CE Primary School, the governing body of Cornerstone Federation published a Public Notice on 10 November 2017 outlining the proposed prescribed alteration to the age range. This report sets out the comments received through the consultation and following the publication of the Public Notice. A copy of the Public Notice is attached at Appendix 2 and the full proposal at Appendix 3.
5. The report also sets out comments upon the statutory guidance for decision makers on factors that need to be considered when deciding on 'prescribed alterations'. The Local Authority is the final decision maker on the proposal.
6. This report recommends that The Bay CE Primary School should become a 4 – 16 all through CE school, through the utilisation of the Sandown Bay Academy site, with effect from 1 September 2018

BACKGROUND

7. Sandown Bay Academy (age 11-18) converted to academy status in 2011 and is currently operated by Academies Enterprise Trust (AET). It has been underperforming for a number of years; in May 2017 it was judged 'inadequate' by Ofsted following a full inspection. Earlier this year, as part of a wider trust re-structuring plan, AET proposed to merge Sandown Bay Academy with AET's other secondary school on the Isle of Wight, Ryde Academy. This proposal would have resulted in the closure of the Sandown Bay site.
8. AET launched a six week consultation on the Island about these proposals on 25 May 2017. AET's consultation closed on 6 July having received approximately 1,500 responses. The clear outcome being that the overwhelming majority of those responses did not support AET's proposal to merge Sandown Bay Academy with Ryde Academy. The arguments against the proposal from respondents were the increase in pupil travel distance/time if the merger went ahead; and a desire to retain secondary provision within the local Sandown Bay community.
9. The local governing body at Ryde Academy through its Chair of Governors on 9 June wrote to parents and carers setting out their views on the AET proposal. The following key points were made;
 - Governors believe that the proposed merger is not in the best interests of students, parents or the community of either school.
 - Ryde Academy does not have capacity for students from both schools.
 - Both Sandown and Ryde communities need local schools.
 - Leadership at Ryde Academy has delivered rapid and significant improvement over recent years and must remain focused on Ryde Academy.
 - Any merger would inevitably bring considerable disruption, impacting on all students.
10. The Isle of Wight Council launched its own six week consultation on 12 June which outlined two main options:
 1. re-brokerage of the academy away from AET to another academy trust if the Regional Schools Commissioner could identify a suitable trust;
 2. an age-range expansion of The Bay CE Primary school, a nearby, local authority maintained CE primary school to create an all-through 4-16 or 4-18 provision.

The consultation document can be accessed at:

<https://www.iwight.com/azservices/documents/1842-Sandown-Consultation-Documents-FINALv3a.pdf>

11. More than 1,800 people responded to the local authority (LA) consultation. The main messages resulting from the consultation were that respondents overwhelmingly wanted to retain secondary education in the Sandown Bay area and, of the two options proposed; the vast majority supported the age-range expansion of the local authority maintained Church of England primary school, the Bay CE Primary.

12. Following the consultation, local authority officers outlined to the Department for Education (DfE) how the all through school could operate, setting out how governance could be strengthened to include secondary expertise, how leadership capacity could be built within the secondary section of the school and how that leadership could draw upon the expertise of school improvement professionals with extensive experience as well as school to school support.
13. That information was also shared with the Governing Body of the Cornerstone Federation and the diocese which have been supportive, in principle, of the direction of travel.
14. On 27 October 2017, The Leader of the Council and the Cabinet Member for Children's Services received written confirmation that the Minister for Education, Baron Agnew of Oulton had agreed conditionally to agree to the closure of Sandown Bay Academy with effect from 31st August 2018. Letter attached at Appendix 1
15. That conditional agreement allowed the local authority; the diocese and The Bay CE Primary School to commence the statutory consultation process to change the age range of The Bay CE Primary with effect from 1 September 2018 so that the school is an all through CE school for the start of the 2018/19 academic year.
16. Both the diocese and the governing body of the Cornerstone Federation were in agreement with commencing the statutory consultation process – this starts with the publication of a Public Notice as outlined in the Department for Education statutory guidance.

Consideration of options and inclusion of sixth form

17. Further to the initial consultation, full consideration has been given to whether the Bay CE Primary should alter its age range from 4-16 or 4-18 and therefore the continuation of the sixth form provision at Sandown. Governors of the Cornerstone Federation have remained open minded to both options through-out.
18. In order to increase the age range of The Bay CE Primary School from 4 – 11 to 4 – 18 two consultations would be required. The first would seek to take the school to an upper age limit of 16 and the second to provide a new sixth form, taking its upper age range to 18.
19. Adding a sixth form to The Bay CE Primary School would be viewed by the DfE as setting up a new sixth form provision. Their statutory guidance clearly sets out what proposers and decision makers should consider before proposals to open a new sixth form are put forward. These include but are not limited to:
 - The proposed sixth form will provide places for a minimum of 200 students;
 - There is a clear demand for the new sixth form (including evidence of a shortage of post-16 places and a consideration of the quality of L3 provision in the area)

- The proposed sixth form is financially viable (there is evidence of financial resilience should student numbers fall and the proposal will not impact negatively on 11 – 16 education or cross subsidisation of funding).

Further details can be accessed at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/514548/16-04-06_FINAL_SO_Guidance_PA_Regs.pdf

20. These baseline DfE requirements can not be met and therefore it is not possible to create a sixth form as part of this proposal at the current time.
21. The 4 – 16 proposal secures secondary education in the area while offering the opportunity for the local authority to undertake a wider review of sixth-form education across the Island.

Statutory guidance for decision makers regarding ‘prescribed alterations’

22. The Department for Education has issued statutory guidance for decision makers on factors that need to be considered when deciding on ‘prescribed alterations and establishment and discontinuance proposals’.
 - That an appropriate, fair and open local consultation and representation period (to the Public Notice) has been carried out and full consideration has been given to all responses received.
 - Consideration is given to the quality and diversity of schools in the area and whether the proposal will meet or affect the needs of parents, raise local standards and narrow attainment gaps.
 - Whether there are any sex, race or disability discrimination issues that arise from the changes being proposed.
 - The impact on community cohesion.
 - That accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.
 - The impact on special educational needs provision.
 - There is sufficient capacity to accommodate displaced pupils from a school closure.
 - That guidance on schools causing concern (intervention in failing, underperforming and coasting schools) has been followed.

The Public Notice

23. The governing body of the Cornerstone Federation published proposals to make a prescribed alteration to the upper age range of their school on 10 November 2017. The proposal sort to alter the upper age range of the school from 11 to 16 making the school an all through school. The local authority, as set out by the DfE in (Making ‘prescribed alterations’ to maintained schools) is the decision maker in such instances.
24. The Public Notice was published on 10 November 2017 for a period of four weeks; the closing date for comments was 8 December 2017. The Notice was published in Isle of Wight County Press and on the Isle of Wight Council website and displayed at both schools during this period. A copy of the Public Notice and the associated full proposal can be found at Appendices 2 and 3.

25. A total of 34 representations were received during the Public Notice consultation period. Of these, six were in support of the proposal and the remaining 28, while not opposing the change in age range to include secondary-aged pupils, were highlighting the impact of the loss of the sixth form provision at Sandown Bay Academy for both current and future year 12 and 13 pupils. All representations are included in Appendix 4 accompanying this report.
26. The closure of the Sandown Bay Academy sixth form is a consequence of the school being closed on 31 August 2018. In order to mitigate the impact of the closure the governing body of the Cornerstone Federation with the full support of the diocese and local authority has sought to alter its upper age range so it can provide education from the age of 4 to 16 through the utilisation of the existing Sandown Bay site.
27. All representations received during the consultation period have been considered by the decision maker and accompany this report.

Consideration of consultation and representation period

28. The statutory consultation related to the proposal to extend the age range of The Bay Primary School to age 16. This is aimed at securing future secondary provision in Sandown as a consequence of the proposal to close Sandown Bay Academy.
29. The public notice period offered an opportunity for consultees to submit their responses. 34 representations were received during the Public Notice period they are attached at Appendix 4. All were fully considered and reported to the Cabinet Member for Children's Services.

Education standards and diversity of provision

30. Sandown Bay Academy has been underperforming for a number of years; in May 2017 it was judged 'inadequate' by Ofsted following a full inspection. Following this AET took the decision to consult on the future of the school which, if approved would see its closure for the start of the 2018 academic year.
31. On 27 October 2017, The Leader of the Council and the Cabinet Member for Children's Services received confirmation that that the Minister for Education had agreed conditionally to agree to the closure of Sandown Bay Academy with effect from 31 August 2018.
32. The Bay CE Primary School was fully inspected by Ofsted in May 2014, it was judged to be 'good' in all areas. Key inspection comments included "*the experienced head teacher is highly effective and very well supported by a strong leadership team and efficient governors*".
33. The need to maintain secondary provision on the Sandown Bay site is fully supported both locally and nationally. In the view of the council and with the support of the governing body of the Cornerstone Federation, the diocese and local community the expansion of the age range of The Bay CE Primary School to 4 – 16 offers the best potential for creating high quality educational provision that continues to deliver a local secondary offer.

Equal opportunity issues

34. Consideration must be given as to whether there are any sex, race or disability discrimination issues that arise from the changes being proposed. While it is proposed that the Sandown Bay Academy will be closed, education for secondary age students will be maintained on the site through the proposed change of age range to The Bay CE Primary School. Primary provision will remain in its current location.
35. The policies of the council and The Bay CE Primary School in relation to equal opportunities and eliminating discrimination will continue to apply should the proposed change of age range be approved.
36. Council officers will work closely with the executive headteacher and governing body to assess any support that might be required by students and their families / carers should the proposed change of age range be approved.

Community cohesion

37. If approved the proposal represents the best opportunity to ensure the future provision of high quality secondary education in the Sandown Bay area. It keeps provision at its current location therefore, ensuring the offer of local school places for local children is maintained.
38. The existing wider community offer that is available on the Sandown Bay Academy site will be maintained and developed if the proposal is approved. There will no impact on the community offer currently made by the primary school.

Travel and accessibility

39. As no changes are being proposed to the physical location of the secondary school there will be no impact on travel or accessibility to the school for students.
40. The LA continues to work with those first year sixth-form students currently attending Sandown Bay Academy on options that will allow them to complete their courses with the minimum of disruption. Should this require them to travel to an alternate Isle of Wight provider the LA will, in these exceptional circumstances, fund their agreed travel costs until they conclude the final year of their current course.

Changes to special educational needs provision

41. Within Sandown Bay Academy there is an Autistic Spectrum Resource Centre (ASRC). This will not be impacted by this proposal and it will form part of the all through school.

Sufficient capacity exists in the local area to accommodate displaced pupils

42. The proposal seeks to secure secondary provision on the existing Sandown Bay Academy site. There will be no loss of accommodation at either location therefore; between the two sites sufficient capacity will exist to meet the local demand for places. For September 2018 there are no current plans to alter the overall number of places available in the primary or secondary phase.

That guidance on schools causing concern (intervention in failing, underperforming and coasting schools) has been followed

43. The local authority has worked closely with AET, the Department for Education and Regional Schools Commissioner Office to fully manage the impact of the proposed closure of Sandown Bay Academy.
44. The expansion of the age range of The Bay CE Primary School to create a 4 – 16 all through provision is in the opinion of the local authority the best opportunity to ensure improved educational outcomes for secondary age students in the Sandown Bay area.

Consultation equalities

45. The local authority has undertaken consultation and in partnership with the governing body of the Cornerstone Federation published a Public Notice in line with all relevant Department for Education statutory guidance. Relevant documents were also published in the Isle of Wight County Press, on the council website and at the school.
46. The outcome of the council led consultation over the summer was reported to the Cabinet Member for Childrens Services. This report details the representations received during the following Public Notice period. A total of 34 representations were received.
47. Equalities impacts have been considered in the Equalities section of this report. No adverse impact has been identified with the proposal for a 4 – 16 all through school. Education will continue to be provided in the same location for both primary and secondary age students.
48. Council officers will work with executive headteacher and governing body of the Cornerstone Federation to assess the opportunities that exist to provide support to those families most in need with regard to any financial impacts this proposal if approved might have.

Financial / budget implications

49. The all-through school will receive a budget share funded from the dedicated schools grant (DSG) like all other schools, incorporating the impact of the various school formula factors prescribed by the Education & Skills Funding Agency (ESFA) operational guidance. Annual funding is likely to be in the region of £6-7million. During the 2018-19 financial year a pro-rata amount will be calculated for the part-year period based on the 2018-19 financial year allocations of funding for the two separate schools (to be confirmed by March 2018 following relevant sign off of the wider school funding formula for that year). Subsequent years would see the school budget share calculated using the normal formula for the one school including the impact of the combined school pupil numbers and characteristics from the October 2018 census.
50. Possible revenue costs and financial risks associated with the set up and transition period are being gathered and will be analysed in coming months, such as implications of contract novation, TUPE transfer of staff, professional support and school improvement. Council officers also continue to discuss future capital funding

support for the Sandown Bay site through the government's Priority Schools Building Programme 2 with the ESFA.

Personnel Implications

51. Should the decision be taken to expand the age range of The Bay CE Primary School there is expected to be limited personnel implications for the existing staff of the schools. The council will work with, as required, all affected staff and their professional associations.
52. The council will support the governing body in managing the staffing implications linked to the closure of Sandown Bay Academy. Early but limited engagement has taken place with the leadership of The Bay CE Primary to outline the key HR processes and procedures likely to be necessary linked to this closure and the proposed extension of age range.

Admissions and Transport

53. There are ongoing admissions rounds for both primary to secondary transition and starting at primary school. The latter is unaffected by the proposed age range change. If the change is progressed the local authority will need to apply to the office of the school's adjudicator to seek a variation to the 2018 determined admission arrangements. This will regularise admissions into Year 7 and the other secondary year groups.
54. The current admissions criteria will remain; this fits with all other Sandown primary sector schools. There will be an admission number that applies to both Reception and Year 7 admissions. Attending the Bay CE Primary would allow Year 6 pupils automatic progression into Year 7 in the all through school. Additional forms of entry in Year 7 would be offered, priority will be given to those children where Sandown is their nearest school thus providing for demand from across the Sandown community. Those in The Bay CE Primary phase whose parents wished to name another secondary phase school as a preference will be able to do so in the normal way in the secondary admissions round.
55. Eligibility for free home to school transport to the new all through school will be decided by the LA's home to school transport policy.

Property implications

56. The current Sandown Bay Academy site is under the control of AET. On the agreed closure date of the academy the site and buildings will return to the control of the Isle of Wight Council.
57. If the proposed age range change of The Bay CE Primary School is approved and the school takes over the existing secondary school site and buildings, the council will be required to transfer part or the whole of the site to the diocese.

Future direction

58. The local authority has followed the required statutory guidance to enable a decision to be made regarding the change of age range of The Bay CE Primary School.
59. The Public Notice resulted in 34 representations being received.
60. Sandown Bay Academy has suffered from relatively weak performance over the past five years and in May 2017 was judged 'inadequate' by Ofsted. The change of age range of The Bay CE Primary School presents the best opportunity for providing sufficient, quality secondary school places in the Sandown area. It will allow for one shared vision for pupils in the area to be developed, with the aim of providing consistent, high aspirations and expectations and drive for excellence.

LEGAL IMPLICATIONS

61. The local authority has a duty to promote high standards in primary and secondary education which originates from the 1996 Education Act. This provision was amended in the 2006 Education and Inspections Act to include, "...and the fulfilment of potential." The 2006 Act spells out the responsibility of the local authority to promote high standards; ensure fair access and promote the fulfilment of every child's educational potential. This duty applies to children of compulsory school age and those of any age (up to 20) who are registered as pupils at maintained schools.

EQUALITY AND DIVERSITY

62. 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 belief, sex and sexual orientation.
63. An initial Equalities Impact Assessment (EIA) has been undertaken and no adverse impact has been identified in relation to the proposal. Primary and secondary education will continue to be provided in the same location and be available to all groups who currently access it.
64. Suitable alternate arrangements will be put in place by the LA for those sixth form students impacted by the decision of AET to close Sandown Bay Academy.
65. The LA will work with all affected staff and their professional associations to ensure the interests of all staff are fully considered.

SECTION 17 CRIME AND DISORDER ACT 1998

66. The attainment of better educational outcomes has a direct impact upon future economic wellbeing and, therefore, upon potential involvement in criminal activity. Success at school promotes self-esteem, attendance and good behaviour leading to greater community cohesion, adult independence and active citizenship.

OPTIONS

67. Without the current proposal the only two options available are
- The re-brokering of Sandown Bay Academy to another academy sponsor.
 - The permanent closure of Sandown Bay Academy.
68. The proposal being put forward in the view of the local authority is the best option that will allow for future high quality secondary education to be assured going forward in Sandown.

RISK MANAGEMENT

69. An implementation group has been formed and will meet on a monthly basis; it is chaired by a senior education and inclusion officer. Representatives of the governing body, the executive headteacher and LA officers with expertise in governance, property, HR, finance, admissions and school improvement will also attend the group. They will ensure that risks associated with setting up the all through school are identified and mitigated.

RECOMMENDATION

70. It is recommended that approval be given to the proposal published by the governing body of the Cornerstone Federation, in accordance with sections 15 and 19 of the Education and Inspections Act and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2103 to alter the upper age limit of The Bay CE Primary School from 11 to 16 with effect from the 1 September 2018.

APPENDICES ATTACHED

71. [Appendix 1](#) – Minister for Education letter (conditional agreement to closure of Sandown Bay Academy)
[Appendix 2](#) – Public Notice
[Appendix 3](#) – Full proposal
[Appendix 4](#) – Representations received during the Public Notice period.

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STEVE CROCKER
Children's Services

COUNCILLOR PAUL BRADING
Cabinet Member for Children's Services

Decision

Signed

Date
