



Mayor and Cabinet

**Report title: Proposed change of age range at Brent Knoll School –
Permission to consult**

Date: 8 May 2024

Key decision: Yes

Class: Part 1

Ward(s) affected: Whole Borough

Outline and recommendations

This report seeks Mayor and Cabinet approval to conduct a statutory consultation regarding the proposal to change the age range at Brent Knoll School, from 4-16 to 4-17 to make permanent the 2-year trial period in which the school provided transitional KS5 provision. Following this statutory consultation a further report would then come to Mayor and Cabinet outlining the results of the consultation and seeking a decision on the proposal. It is anticipated that this report will be presented at the 10 July meeting.

The Mayor and Cabinet are recommended:

- to note the report and agree to officers conducting a statutory consultation on the proposal to change the age range at Brent Knoll School

Timeline of engagement and decision-making

8 May 2024

Mayor and Cabinet - Approval to consult

17 May 2024

The statutory notice and proposal will be published in the South London Press and on the Lewisham website

17 May 2024 - 21 June 2024

Period of representation (Period of time when people can submit comments regarding the proposal)

12pm 21 June 2024

Deadline for comments on proposal

10 July 2024

Mayor a Cabinet – Decision

1. Summary

- 1.1 The seeks the approval of Mayor and Cabinet to conduct a statutory consultation on the proposal to change the age range of Brent Knoll School from 4-16 to 4-17 with an implementation date of 1 September 2024.

2. Recommendations

- 2.1 The Mayor and Cabinet are recommended:
- 2.2 note the report and agree to officers conducting a statutory consultation on the proposal to change the age range at Brent Knoll School

3. Policy Context

- 3.1 The proposal to change the age range of Brent Knoll School will contribute to the following key priority outcome of Lewisham's Corporate Strategy 2022-2026:
- 3.2 We will continue the fantastic work of the last four years, supporting our schools to improve and increasing the opportunities for young people in Lewisham within our inclusive, comprehensive schools.
- 3.3 The Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory school age

Education Strategy 2022-27

- 3.4 The Lewisham Education Strategy has a priority focussed on providing 'A place in a good school/setting for all of our children and young people'. This specifically refers to effective planning of high-quality school places (including for SEND) to meet demand through continuous monitoring and review of population projections.
- 3.5 Within this the strategy also highlights the need to review the provision we have within the borough that caters for children and young people with special educational needs and disabilities (SEND), to ensure that the correct provision is provided in the right place at the right time.

School Organisation Requirements

- 3.6 Proposals to change the age range of a school must comply with the provisions set out in *The Education and Inspections Act 2006 (EIA 2006)* and *The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013*. These set out the statutory process for making changes to a school, and statutory guidance on making changes to a maintained school indicates 4 stages to making a prescribed alteration to a maintained school. These are:
 - 1) Publication of a Statutory Notice
 - 2) Representation period
 - 3) Decision making
 - 4) Implementation
- 3.7 In the case of a community school (which Brent Knoll School is) the Local Authority must propose and conduct the publication and representation periods, with the Mayor and Cabinet (as statutory decision maker) then making the decision.

4. Background

- 4.1 Brent Knoll School is a Foundation School and part of the Brent Knoll and Watergate Co-operative Trust. It is one of five Special Schools within Lewisham, that currently provides (Ofsted rated Good) provision for children aged 4–16 with complex social, communication and interaction difficulties, including autism.
- 4.2 The council has been working with Brent Knoll School over the past two years, piloting a programme whereby the School continues to educate a number of vulnerable Year-12 aged pupils to help further enable them to transition into adulthood and access local college provision.
- 4.2 Following the success of this pilot work (in which all but 1 pupil successfully transferred into local college provision last year), we now wish to formally change the age range of the school (as prescribed by statutory guidance) to allow this work to continue. And will then seek to commission up to 10 post-16 places per annum at Brent Knoll School from the 2024/25 Academic year onwards.
- 4.3 This provision will enable us to keep young people local and prepare them for the next step in their transition.
- 4.4 The council will have clear KPI's in place with Brent Knoll related to monitoring the success rate of these youngsters moving on to local colleges instead of moving out to the costly independent special college sector, helping to reduce pressure on the high needs block.
- 4.5 The admissions criteria for this Y12 offer will be very clear and specific, there is no automatic 'entitlement' to move from Y11 at Brent Knoll to Y12 at the school.
- 4.6 We anticipate that approximately up to 50% of the Y11 cohort at Brent Knoll may access this provision created.
- 4.7 The Mayor and Cabinet are recommended to agree to the publication of a proposal to change the age range of Brent Knoll School from 4-16 to 4-17. For officers to then conduct the statutory consultation and return to Mayor and Cabinet with the results of the consultation for final decision.

5. Financial implications

Capital Financial Implications

- 5.1 There are no capital financial implications as a result of this report.

Revenue Financial Implications

- 5.2 At this stage the report is to seek permission to consult. Following consultation, a further decision report will be required.
- 5.3 Assuming the consultation is successful, and Mayor and Cabinet make the decision to implement the proposal above, then there are no direct financial implications for the General Fund. The age profile change reflects the sufficiency need for the council and is part of the wider review and reforms required to ensure the council meets its statutory requirements with respect to providing suitable Special Educational Needs provision. The age profile is anticipated to support the High Needs Mitigation Plan by enabling more pupils to stay within Lewisham. Funding to support revenue costs will be met from the Dedicated Schools Grant - High Needs Block.

6. Legal implications

- 6.1 The Human Rights Act 1998 safeguards the rights of children in the borough to educational provision, which the local authority is empowered to provide in accordance with its duties under domestic legislation.
- 6.2 Section 14 of the Education Act 1996 obliges each local authority to ensure that there are sufficient primary and secondary school places available for its area i.e. the London Borough of Lewisham, although there is no requirement that those places should be exclusively in the area. The Authority is not itself obliged to provide all the schools required, but to secure that they are available.
- 6.3 In exercising its responsibilities under section 14 of the Education Act 1996 a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.
- 6.4 The Education and Inspections Act 2006 places requirements on local authorities to make their significant strategic decisions concerning the number and variety of school places in their localities against two overriding criteria:
- to secure schools likely to maximise student potential and achievement;
 - to secure diversity and choice in the range of school places on offer.

Section 19 of the Education and Inspections Act 2006 provides that where a local authority or the governing body of a maintained school proposes to make a prescribed alteration to a maintained school and it is permitted to make that alteration, it must publish proposals.

- 6.5 The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 provide that change in age range of a maintained School is a prescribed alteration which means that statutory proposals have to be published, and there must be a period of four weeks for representations before a decision is made. Proposals to change the age range of a school will be determined by the local authority as decision maker.
- 6.6 The relevant Guidance advises that the Mayor as decision maker will need to be satisfied that the appropriate consultation and/or statutory representation process has been carried out and that the proposer has had regard to the responses received. The Mayor must consider all the views submitted, including all support for, objections to and comments on the proposals.
- 6.7 Any decision to change the age range of Brent Knoll School should be taken in the light of the representations received to the statutory consultation and the DfE Guidance for Decision-Makers.
- 6.8 It should be noted that decisions must be made within a period of two months of the end of the representation period or be referred to the Schools Adjudicator.

Equalities Legislation

- 6.9 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 6.10 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected

- characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

6.11 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 6.9 above.

6.12 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

6.13 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

www.equalityhumanrights.com/en/advice-and-guidance/equality-actcodes-practice

www.equalityhumanrights.com/en/advice-and-guidance/equality-acttechnical-guidance

6.14 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty: A guide for public authorities
- Objectives and the equality duty. A guide for public authorities
- Equality Information and the Equality Duty: A Guide for Public Authorities

6.15 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

www.equalityhumanrights.com/en/advice-and-guidance/public-sectorequality-duty-guidance#h1

7. Equalities implications

7.1 There are no direct equalities implications as a result of this report. However, should the Mayor and Cabinet make the decision to proceed with the proposal at a future meeting, there will likely be some positive impact due to more young people being educated closer to home and the council being able to meet their needs within a high quality local setting.

8. Climate change and environmental implications

- 8.1 There are no direct climate change and environmental implications as a result of this report. However, should the Mayor and Cabinet make the decision to proceed with the proposal at a future meeting, there will likely be some positive impact due to reduced travel.

9. Crime and disorder implications

- 9.1 There are no crime and disorder implications as a result of this report.

10. Health and wellbeing implications

- 10.1 There are no direct health and wellbeing implications as a result of this report. However, should the Mayor and Cabinet make the decision to proceed with the proposal at a future meeting, there will likely be some positive impact due to reduced travel as well as educational opportunities closer to home and more preparedness for adulthood.

11. Report author and contact

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12. Comments for and on behalf of the Director of Finance

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