



Mayor and Cabinet

Report title: Governing Body Proposal regarding the future of St Mary Magdalen's Catholic Primary School

Date: 10 March 2021

Key decision: Yes

Class: Part 1

Ward(s) affected: Crofton Park, Whole Borough

Outline and recommendations

This report provides an overview of a proposal from the Governing Body of St Mary Magdalen's Catholic Primary School regarding future of the school and proposing closure, including the associated rationale and implications.

The Mayor and Cabinet are recommended to approve that officers work with the Governing Body and Diocese to ensure that the statutory process for consultation on school closure is followed.

Timeline of engagement and decision-making

10 March 2021	Cover Report and Governing Body proposal to Mayor & Cabinet
19 April 2021	Stage 1 – Governing Body process for consultation commences
28 May 2021	Close of Stage 1 Consultation
10 June 2021	Governing Body deadline for consideration of changes to proposal following Stage 1 Consultation
11 June 2021	Stage 2 – Governing Body Publication of Proposal

11 June 2021	Stage 3 – Governing Body Representation period commences
9 July 2021	Period of representation closes
w/c 12 July 2021	Responses to be shared with Council to enable Decision report to be produced for consideration by Mayor and Cabinet. If the Council does not make a decision within 2 months of the end of the Representation period, the Council must refer to the Schools Adjudicator who will then also be the decision-maker.
Late July 2021	Stage 4 - Decision report to Mayor & Cabinet (within 1 week decision must be published with reasons and notify various stakeholders – the decision if challenged are referred to Schools Adjudicator)
Autumn term 2021	Bespoke admissions round for those pupils still at the school
31 December 2021	Stage 5 – Proposed Implementation of School Closure

1. Summary

- 1.1 The report presents and considers the proposal from the Governing Body of St Mary Magdalen's Catholic Primary School, Crofton Park (Appendix 1) to start the statutory consultation and decision process for closing the school on the basis that the school is not viable.
- 1.2 The report then seeks authorisation from Mayor and Cabinet for officers to work with the Governing Body and Diocese to ensure that the Governing Body of the school follows the statutory process and to ensure that the requisite information is provided. This will enable Mayor and Cabinet to make an informed decision on the closure later in 2021; the Council will be the statutory decision maker.

2. Recommendations

- 2.1 The Mayor and Cabinet are recommended to approve:
- 2.2 That officers work with the Governing Body and Diocese to ensure that the statutory process is followed.

3. Policy Context

- 3.1 The proposal to close St Mary Magdalen's Catholic Primary School is in line with the following key priority outcome of Lewisham's Corporate Strategy 2018-2022:
- 3.2 Giving children and young people the best start in life – every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential.
- 3.3 Additionally the Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory school age; at present a falling birth rate means that we are currently reducing the number of places in our Primary schools to prevent oversupply and allow schools to plan on a more stable footing.

Place Planning Strategy 2017-22

- 3.4 A recommendation of the 2016 Lewisham Education Commission Report was for the Council to develop a new 5 year Place Planning Strategy that succeeded the Primary Strategy for Change. Officers reviewed what had occurred previously and what needed to be achieved in the future. Subsequently the draft strategy went through a public consultation process. The strategy was approved by Mayor and Cabinet on 22 March 2017.
- 3.5 Within the new strategy the Council committed to constantly review its forecasting to ensure that the supply of school places met need as accurately as possible, as both undersupply and oversupply can have knock on effects on school standards and finances.

School Organisation Requirements

- 3.6 Proposals to close a school must comply with the provisions set out in *The Education and Inspections Act 2006 (EIA 2006)* and *Opening and Closing Schools - Statutory Guidance for Proposers and Decision Makers, November 2019* (Appendix 2). These set out the statutory process for closing a school, and the statutory guidance on closing a maintained school indicates 5 stages to be completed. These are:
 - 1) Consultation
 - 2) Publication of a Statutory Notice

3) Representation period

4) Decision making

5) Implementation

3.7 In the case of a Voluntary Aided (VA) school (which St Mary Magdalen's Catholic Primary School is) the Governing Body can propose and conduct the Consultation, Publication and Representation periods, with the local authority (as statutory decision maker) then making the decision.

4. Background

4.1 The Governing Body of St Mary Magdalen's Catholic Primary School and the Archdiocese of Southwark Education Commission have been in discussions with officers since Autumn 2020 regarding the future of the school. The school at present is struggling to operate as in the recent past it has had a drastically reduced cohort, falling student rolls and a deficit budget. As such the Governing Body believe the school to be non-viable, and that pupils would be effectively educated elsewhere.

4.2 The Governing Body with the support of the Diocese have made the decision that the school is unviable, for a range of factors detailed in their proposal at Appendix 1, including:

- Parental Support/Reputation
- Falling rolls/Reducing primary numbers forecast in Lewisham
- Deficit Budget/Finances

4.3 The school is currently rated as 'Red' by the local authority and as such has been receiving significant additional support, however the numbers on roll continue to fall.

4.4 The Governing Body proposal refers to the reduction in future primary school pupil numbers forecast by the Council. The relevant context of this is that the Council has reduced the number of Council-wide Reception places over the past 4 years from 3900 to 3660 (for 2021), and forecasting shows that further reductions need to take place over the coming years.

4.5 With regards to places available in neighbouring schools for potentially displaced pupils, the Governing Body proposal refers to local Catholic schools in particular and also mentions the spare capacity across the wider Lewisham schools within a 1 mile radius. As of the end of January 2021 there were 150 pupils on roll at St Mary Magdalen, spread across the 7 year groups as follows:

Year Group	YR	Y1	Y2	Y3	Y4	Y5	Y6	Total
Numbers on roll	17	25	24	21	23	18	22	150

4.6 Also, as of the end of January 2021, there were a total of 681 spare places at the 19 Lewisham schools within a 1 mile radius. Officers therefore agree that there are sufficient places in local schools to be able to accommodate any pupils that may be displaced as a result of the proposed closure, specifically:

Vacancies @ Jan21								
SchoolName	R	1	2	3	4	5	6	Total YR-Y6
Ashmead Primary School	0	11	4	22	1	1	9	48
Beecroft Garden Primary	3	2	5	2	7	10	12	41
Dalmain Primary School	6	5	10	6	10	1	18	56
Edmund Waller Primary School	5	3	8	7	9	21	3	56
Gordonbrock Primary School	3	1	2	14	1	7	5	33
Haberdashers' Aske's Hatcham Temple Grove	0	3	3	3	4	0	2	15
Haberdashers' Aske's Hatcham Temple Grove Free School	0	0	0	3	1	0	0	4
Holbeach Primary School	0	3	0	10	9	7	14	43
John Stainer Community Primary School	3	3	4	5	15	11	9	50
Lucas Vale Primary School	0	4	8	9	17	13	0	51
Myatt Garden Primary School	1	4	3	8	6	11	2	35
Prendergast Ladywell School	0	1	5	3	12	5	15	41
Prendergast Vale School	2	0	1	1	6	5	1	16
St Mary's Lewisham CofE Primary School	0	0	0	1	2	2	2	7
St Stephen's Church of England Primary School	0	5	2	1	2	3	0	13
St William of York Catholic Primary School	6	0	0	0	0	2	4	12
Stillness Infant School	0	5	7	0	0	0	0	12
Stillness Junior School	0	0	0	14	11	10	21	56
Turnham Academy	0	30	26	5	6	12	13	92
Total	29	80	88	114	119	121	130	681

- 4.7 The Governing Body proposal outlines a timeline for completing the statutory process with a proposed implementation date (closure date) of 31 December 2021.
- 4.8 If a decision to close the school is made following the consultation process then officers will work with the Governing Body to run a bespoke admissions round for those pupils that are still on role at that time, to ensure that there is a clear, transparent and coordinated process for parents and children to exercise their preferences.
- 4.9 Separately to the statutory process outlined, officers will immediately commence work with the Governing Body, the senior leadership team at the School, the Diocese, and the parents/carers and children currently at the school - who will clearly be anxious following the news that the Governing Body plan to consult on school closure – to ensure that all necessary assistance and support is put in place.

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 The school currently has a cumulative deficit position which Lewisham has been actively working with the school to reduce. Lewisham will need to continue to work effectively with the school to ensure that the overspend position at worst is maintained by undertaking actions to reduce this over the remaining period.
- 5.3 Schools are funded on lagged number basis; as such the funding for the school (at least in respect of their main delegated budget share) will be confirmed for the period April to December.

6. Legal implications

- 6.1 This report considers the proposal made by the school regarding closure. There is no decision currently sought from the Council other than to work with the school to ensure the process is done correctly; the report notes that the Council is likely to be asked to make a decision on closure later in 2021.
- 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. 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.
- 6.3 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.
- 6.4 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 15 of the Education and Inspections Act 2006 provides that where the governing body of a voluntary aided school proposes to close a maintained school and it is permitted to make that alteration, it must follow the 5 stage statutory process.

- 6.5 In relation to the proposal to close St Mary Magdalen's Catholic Primary School, the relevant statutory Guidance (to which regard must be had; it is at Appendix 2 of the report) states that the local authority is the decision maker as referred in the above timetable at Stage 4 of the Statutory Consultation Process. The decision must be made within a period of two months of the end of the Stage 3 representation period or be referred to the Schools Adjudicator. Therefore in due course when making the decision as to whether to close the school, Mayor and Cabinet will need to be satisfied that the appropriate statutory consultation, publication, and representation process has been carried out and that the proposer has had regard to the responses received. Mayor and Cabinet must consider all the views submitted, including all support for, objections to and comments on the proposal. The recommendation in this report will support that future consideration by Mayor and Cabinet.
- 6.6 This is a key decision given this report relates to 'the closure or significant change in the character of a school ...'.

Equalities Legislation

- 6.7 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.
- 6.8 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.

6.9 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 6.7 above.

6.10 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.

6.11 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

6.12 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

6.13 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 from the decisions recommended. However any future decision report will include the necessary implications.

8. Climate change and environmental implications

8.1 There are no climate change and environmental implications.

9. Crime and disorder implications

9.1 There are no crime and disorder implications.

10. Health and wellbeing implications

10.1 There are no health and wellbeing implications

11. Appendices

11.1 **Appendix 1** – Outline proposal prepared by the Governing Body of St Mary Magdalen School for Mayor and Cabinet

11.2 **Appendix 2** – Opening and closing maintained schools

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