

<b>CHILDREN AND EDUCATION SCRUTINY COMMITTEE</b>	AGENDA ITEM No. 5
<b>17 DECEMBER 2019</b>	<b>PUBLIC REPORT</b>

Report of:	Jonathan Lewis, Director: Education	
Cabinet Member(s) responsible:	Cllr Lynn Ayres, Cabinet Member for Children’s Services and Education, Skills and University	
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**PROPOSAL TO ESTABLISH A NEW VOLUNTARY AIDED ROMAN CATHOLIC PRIMARY SCHOOL IN THE HAMPTONS EAST DEVELOPMENT**

<b>R E C O M M E N D A T I O N S</b>	
<b>FROM:</b> Service Director: Education	<b>Deadline date:</b> 19 December 2019
<p>It is recommended that the Children and Education Scrutiny Committee note</p> <ol style="list-style-type: none"> <li>The latest position regarding the proposal by the Roman Catholic Diocese of East Anglia (RCDEA) to establish a new Voluntary Aided (VA) primary school in Peterborough</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 This report originated at the request of the Children and Education Scrutiny Committee.

**2. PURPOSE AND REASON FOR REPORT**

2.1 This report is being presented to:

- advise the Committee of the outcome of the initial consultation carried out by the RCDEA regarding its proposal to establish a new voluntary aided primary school in the Hamptons East development of the City
- advise the Committee on the next steps and decision-making process with regard to the RCDEA’s proposal

2.2 This report is for the Children and Education Scrutiny Committee to consider under its Terms of Reference No. Part 3, Section 4 - Overview and Scrutiny Functions, paragraph No. 2.1 Functions determined by Council:

Education, including

- a) University and higher education;
- b) Careers; and
- c) Special needs and inclusion.

2.3 This report links to the Corporate Priority: Improve education attainment and skills and in particular the Priority Outcome *First rate futures for our children and young people*, specifically with regard to the priority to *build new schools to ensure sufficient places are always available*.

2.4 This report links to the Children in Care pledge: *Support Children in Care to have a good education*.

### 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	<b>NO</b>	If yes, date for Cabinet meeting	N/A
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### 4. BACKGROUND AND KEY ISSUES

#### 4.1 Statutory duties

The Council has a statutory duty to provide a school place for every child living in its area of responsibility who is of school age and whose parents want their child educated in the state funded sector. To achieve this, the Council has to keep the number of school places under review and to take appropriate steps to manage the position where necessary. Under the Education and Inspections Act 2006, it also has to adopt a strategic role, with a duty to promote choice, diversity and fair access to school provision.

#### 4.2 Establishing new voluntary aided schools

Voluntary schools are those where the land and buildings are typically owned by a charitable foundation or trust, usually a religious organisation, which has a substantial influence in the running of the school. There are two types, aided and controlled.

In voluntary controlled (VC) schools the foundation appoints about 25% of the governors. The Authority employs the school's staff and is the admission authority for the school.

By contrast, Voluntary Aided (VA) schools have more autonomy. For example, the foundation appoints a majority of the school's governors, the governing body runs the school, employs the staff and decides the school's admission arrangements subject to the statutory Schools Admissions Code. In addition, specific exemptions from Section 85 of the Equality Act 2010 enable voluntary faith schools to use faith criteria in prioritising pupils for admission to those schools. VA schools with a religious character can admit up to 100% of pupils on basis of faith. (whereas free schools with a faith designation, can admit no more than 50% of pupils on the basis of faith). The Diocese's over-subscription criteria for this new voluntary aided school allows for the admission of 20% of children based on distance, regardless of faith.

Anyone, including a Diocese or Local Authority, may publish a proposal for a new VA school in response to clear demand for places that the new school would provide.

If the school is established, the Council's powers of intervention remain the same as for any maintained school including with regard to school improvement.

**Appendix 1** sets out the current denominational school provision across Peterborough

#### 4.3 Proposed new voluntary aided Roman Catholic primary school in The Hamptons East

In December 2018 the Department for Education (DfE) launched a fund to support the establishment of new VA schools, providing 90% of the capital costs of the new school. Three applications were submitted by the Roman Catholic Diocese of East Anglia (RCDEA) to secure capital funding to open new Roman Catholic (RC) VA primary schools: 2 in Peterborough and 1 in Cambridgeshire.

The DfE's decision, announced on 14 June 2019, was to approve in principle, capital funding to establish a new 3 form entry (FE)/630 place VA Roman Catholic (RC) primary school at Hampton Water, part of the Hamptons East development.

If approved, the new VA school would be likely to open in September 2022. It would be the second primary school serving the Hamptons East development, the first being Hampton Lakes Primary School which opened in September 2019.

#### 4.5 Decision making process

The final decision whether or not to establish this new VA school rests with the Council. The

decision will be made by the Cabinet Member for Children's Services, Education, Skills & University. She will make the decision in the context of the Council's policy position, adopted by Cabinet at its meeting on 27 June 2019, which sets out the framework for considering proposals for the establishment of any new VA faith school or academy with religious designation (see **Appendix 2**) and with regard to the factors outlined in the DfE's statutory guidance for decision makers on opening maintained schools (published November 2018).

The statutory representation period closes on 19 December 2019. It is anticipated that the final decision, via Cabinet Member Decision Notice (CMDN), will be taken during January 2020.

If the Cabinet Member does not decide within 2 months of the end of the 4 week statutory representation period (19 February 2020), the proposal must be referred to the Office of the Schools Adjudicator for decision.

## 5. CONSULTATION

5.1 There is a detailed statutory process which must be followed to establish the new VA school.

Firstly, in its role as proposer of the new school, the RCDEA ran a 6 week consultation between 9 September and 20 October. It published a consultation document a copy of which is at **Appendix 3**.

At the back of the consultation document a comment sheet invited people to provide feedback. The document was available at three public meetings and also posted on the RCDEA's website. There was also the option to respond via an on-line survey.

Three consultation events were held as follows:

- Wednesday, 18 September at 7pm at St Thomas More Primary School, Peterborough (12 attended)
- Tuesday, 1 October at 3.30pm at Sacred Heart Primary School, Peterborough (7 attended)
- Monday, 7 October at 7pm at Hampton Vale Community Centre (42 attended)

These meetings provided those present with an opportunity to hear more about the proposal and to ask questions.

A link to the RCDEA consultation was also posted on the Consultation pages of the Council's website. Full details of the consultation events are contained in **Appendix 4**.

5.2 A total of 1146 responses were received, with 82% of respondents strongly in favour and 8% strongly against, the proposal. In addition, a petition with almost 300 signatures was received in support of the proposal.

5.3 Following the closure of the consultation the RCDEA Trustees decided, given the strong level of support demonstrated for the proposal, to proceed to the next stage i.e. to formally propose to the Council the establishment of a VA RC primary school at Hampton Water. Consequently, on 21 November the RCDEA published a statutory notice in the Peterborough Telegraph. This marked the start of a statutory 4 week representation period during which any person or organisation can submit comments on the proposal to the Council, as the decision maker. The decision maker must consider all the views submitted during the representation period, including support for, objections to, and comments on the proposal. The full proposal is at **Appendix 5**.

## 6. ANTICIPATED OUTCOMES OR IMPACT

6.1 The anticipated outcome of this report and attached appendices is that Children & Education Scrutiny Committee will have a clear understanding of :

- (1) the latest position regarding the proposal by the RCDEA to establish a new VA primary school in Peterborough, and next steps in the process; and
- (2) how the final decision regarding the RCDEA's proposal will be made

## **7. REASON FOR THE RECOMMENDATION**

7.1 It is many years since a VA faith school was opened in Peterborough so it is important that Committee has a clear understanding of the processes involved and the Council's role as final decision maker.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

8.1 There is a basic need for a second primary school on the Hamptons East development. An application was also made by the Hampton Academies Trust to establish this school under Wave 13 of the DfE's central free school programme. This was not approved.

The Council does not currently have an alternative to securing the primary school places required for the academic year 2022/23. If the proposal is not approved the Council will need either to encourage another sponsor or sponsors to bid to the DfE to open a free school or to run a competition to identify a new sponsor to recommend to the Secretary of State for approval.

## **9. IMPLICATIONS**

### **9.1 Financial Implications**

Where school proposers are successful in applying to the DfE's capital fund for the establishment of new VA schools, the DfE will provide 90% of the capital cost. The Council will be required to fund the 10% balance.

### **9.2 Legal Implications**

Recent case law arising from judicial review (*British Humanist Association v London Borough of Richmond upon Thames 2012*) makes it clear that a Council has to consider all sponsor proposals received for new schools.

### **9.3 Procurement**

The DfE has confirmed to the RCDEA that, if the Council approves the establishment of this school, it wishes the Council to self-deliver the capital build project using the DfE's contractors framework. The Council would be required to complete a business case for this.

### **9.4 Equalities Implications**

Local Authorities have a number of statutory duties including securing diversity in the provision of schools, increasing opportunities for parental choice and ensuring fair access to educational opportunity.

The Public Sector Equality Duty (s149 Equality Act 2010) requires a public authority to have 'due regard' to the need to advance equality of opportunity and to take steps to meet the needs of persons who, for example, are from different faith backgrounds as well as those from no faith.

The bodies making proposals for new schools with religious designation need to evidence that there is local demand for the relevant faith places sufficient to justify the creation of a new school.

### **9.5 Rural Implications**

None

### **9.6 Children in Care**

In circumstances where this type of school is oversubscribed, the RCDEA's standard oversubscription criteria are as follows:

*Where there are more applications for places than the number of places available, places will be offered according to the following order of priority:*

- 1. Baptised Catholic looked after and previously looked after children*
- 2. Baptised Catholic children*
- 3. Other looked after and previously looked after children*

## 10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 ***Establishing a voluntary aided school: guidance & criteria*** (DfE December 2018)  
<https://www.gov.uk/government/publications/voluntary-aided-schools-capital-scheme>

***Opening and closing maintained schools. Statutory guidance for proposers and decision makers*** (DfE November 2018)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/756328/Opening\\_and\\_Closing\\_maintained\\_schools\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756328/Opening_and_Closing_maintained_schools_Guidance.pdf)

## 11. APPENDICES

- 11.1 Appendix 1- Overview of denominational school provision across PCC  
Appendix 2- PCC's policy position on considering proposals to establish a new voluntary aided faith school or academy with religious designation  
Appendix 3- Copy of the RCDEA's consultation document  
Appendix 4- Summary of Consultation meeting  
Appendix 5- The RCDEA's full proposal

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