

CHILDREN AND EDUCATION SCRUTINY COMMITTEE	AGENDA ITEM No. 4
12 FEBRUARY 2020	PUBLIC REPORT

Report of:	Wendi Ogle Welbourn, Executive Director, People and Communities	
Cabinet Member(s) responsible:	Cabinet Member for Children’s Services, Education, Skills and the University	
Contact Officer(s):	Jonathan Lewis – Service Director (Education) Clare Buckingham (Strategic Education Place Planning Manager CCC and PCC)	Tel. 01223 507165 Tel. 01223 699779

RESPONSE TO CALL-IN OF EXECUTIVE DECISION: PROPOSAL TO OPEN A VOLUNTARY AIDED ROMAN CATHOLIC PRIMARY SCHOOL - JAN20/CMDN/78

RECOMMENDATIONS	
FROM: Cabinet Member for Children’s Services, Education, Skills and the University	Deadline date: N/A
<p>It is recommended that Children and Education Scrutiny Committee:</p> <ol style="list-style-type: none"> 1. Considers the response report to the call in of the proposal to open a Voluntary Aided Roman Catholic primary school, which sets out how Member concerns have been met. 2. After considering the evidence presented to the meeting, <ol style="list-style-type: none"> i) Decide to take no further action in relation to the Cabinet Member Decision Notice for the Proposal to open a Voluntary Aided Roman Catholic Primary School, in which case the original executive decision will be effective immediately; or, ii) Decide to refer the decision back to the Cabinet Member for reconsideration, setting out in writing the nature of its concerns and any alternative recommendations. The Cabinet Member must then reconsider the matter within 5 working days, taking into account the concerns of the Scrutiny Committee, before making a final decision. 	

1. ORIGIN OF REPORT

1.1 This report follows a call-in request of the Cabinet Member Decision Notice published on 27th January 2020 titled “proposal to open a Voluntary Aided Roman Catholic primary school”.

2. PURPOSE AND REASON FOR REPORT

2.1 The report is being presented following a call-in request by Councillors Haynes, Sandford and Day.

The call-in was made on the basis of concerns that the decision does not follow principles of good decision-making set out in Part 2, Article 11 (Decision Making) of the Council’s Constitution, specifically:

- (a) Realistically consider all alternatives and, where reasonably possible, consider the views of the public.
- (d) Act for a proper purpose and in the interests of the public.
- (f) Follow procedures correctly and be fair.

2.2 The Council’s Scrutiny Committee Procedure Rules state:

“10.16 Having considered the call-in and the reasons given, the relevant Committee may either:

- (a) refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns and any alternative recommendations. This will normally be considered at the decision-making body’s next scheduled meeting;
- (b) if it considers that the decision is outside the Council’s Budget and Policy Framework, refer the matter to the Council after seeking the advice of the Monitoring Officer and/or Chief Financial Officer; or
- (c) decide to take no further action, in which case the original executive decision will be effective immediately.

10.17 If referred back to the decision taker they will then reconsider whether to amend the decision before adopting a final decision. Once a decision has been reconsidered by the decision taker it may not be the subject of further call-in.

10.19 If a decision relates to an executive function only the Cabinet can ultimately decide the matter, as long as it is in accordance with the Council’s Budget and Policy Framework.

The body of the report outlines the areas where the call-in challenges the decision made. This report sets out the response to the call-in of the proposal to open a Voluntary Aided Roman Catholic primary school and sets out how Member concerns have been met.

2.3 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 3, Scrutiny, sub paragraph 3.3 Hold the Executive to account for the discharge of functions in the following ways:

- i. By exercising the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive or decisions which have been delegated to an officer;

2.4 This report links to –

- Corporate priority:
 - Improve educational attainment and skills
 - To drive growth, regeneration and economic development
- Children in Care Pledge: Support children in care to have a good education.

3. **TIMESCALES**

Is this a Major Policy Item/Statutory Plan?	No	If yes, date for Cabinet meeting	N/A
---	-----------	----------------------------------	-----

4. **BACKGROUND AND KEY ISSUES**

4.1 To aid the committee to consider this report, the text from the original call-in has been reproduced (in ***bold italics***) and a response to each group of issues has been given. This report needs to be read alongside the original Cabinet Member Decision Notice (**Appendix A**)

4.2 ***Realistically consider all alternatives and, where reasonably possible, consider the views of the public***

The statutory guidance from the DfE states that “The decision-maker should not simply take account of the number of people expressing a particular view. Instead, they should give the greatest weight to responses from those stakeholders likely to be most directly affected by a proposal – especially parents of children at the affected school(s).”

However, neither consultation has collected any reliable and useful quantitative data on support in Hampton water or the wider city. It would seem reasonable to assume that the Diocese were able to duplicate support from their initial consultation into the Council consultation – with 899 paper applications of “agree/strongly agree” support included in the 1591 paper responses from Catholic parishes and schools (it is not clarified if these were all within Peterborough – Page 4). Only around 14% of respondents to the council’s consultation could be identifiable as coming from the Peterborough area.

4.3 In November 2018 the Department for Education (DfE) invited proposals from faith organisations to open new Voluntary Aided (VA) school and assessed a number of bids at a national level. The Roman Catholic Diocese of East Anglia (RCDEA) submitted a proposal to open a VA primary school in Hampton Water. Following their assessment, the DfE agreed that the proposal for the RCDEA is approved for funding and should proceed to the next stage of the process, which was consideration and decision by the Local Authority.

To receive approval from the DfE, the RCDEA, as part of its application, has already had to demonstrate that:

- there is basic need for a high proportion of the school places that the new school will provide, to prevent creating an oversupply of places in the area;
- there is parental demand for the type of school proposed, and it will bring added diversity and choice to the area;
- the school, once open, will be welcoming and address the needs of pupils from all faiths and none, and from different backgrounds and communities in a way that meets our integration and community cohesion objectives and is in line with the requirements of the Equality Act 2010;
- it has the appropriate education, finance and governance capacity and capability to set up and run a successful and viable school;
- the proposed site represents good value for money and can be delivered in a timely manner with an acceptable level of risk.

4.4 It is important to stress that neither of the consultation stages - stage 1 Pre-publication consultation, and stage 2 statutory representation period- were the *Council’s consultation*. In accordance with the statutory guidance the proposer undertakes the consultation process. In the case of stage 2, the representations are sent directly to the decision maker, which in this case is the Council.

4.5 Stage 1 – Pre-publication consultation

The DfE’s *Opening and closing maintained schools, statutory guidance for proposers and decision makers (November 2018)* states: *It is for the proposer to determine the nature and length of the pre-publication consultation. It is best practice for consultations to be carried out in term time to allow the maximum number of people to respond.*

The following table (Table 1) sets out the details of responses from Hampton and wider Peterborough received by the RCDEA during its pre-publication consultation. It shows that both Hampton and wider Peterborough residents were more strongly represented in support of the proposal than those from the same geographical areas who did not agree with the proposal.

Table 1

Views on proposal	Hampton Resident	Wider Peterborough Resident	Total	Percent
Strongly disagree	30	23	53	8.0%
Disagree	4	2	6	0.9%
Don't know	1	0	1	0.2%
Neither agree or disagree	0	7	7	1.1%
Agree	3	43	46	7.0%
Strongly Agree	72	475	547	82.8%
Total	110	550	660	

4.6 Stage 2- statutory representation period.

At the closure of the representation period at 23:30 on 19 December 2019, 1911 responses had been received with 1585 (83%) in support of the proposal and 326 (17%) against.

Table 2 below shows that the 1585 included a group of 1556 paper responses gathered through the local Catholic parishes and schools. Although only 228 of these cited postcodes (10 in Hampton and 218 in wider Peterborough), they were all hand delivered to Sand Martin House in Peterborough which suggests they were all from local Peterborough respondents.

The 326 against the proposal included a petition gathered through, and submitted electronically by, the National Secular Society (NSS) with 249 signatories. Of these, where respondents cited a postcode, 127 were Hampton residents and 75 were residents of wider Peterborough. The other 124 had either not cited a postcode or were from other parts of the country outside Peterborough. The Council acknowledged this petition and it was considered as part of the lead member decision making.

Table 2

	Hampton Resident	Wider Peterborough Resident	Other/ Not Stated	Total	Percent
Agree	17	222	1346	1585	83%
Disagree	127	75	124	326	17%
	144	297	1470	1911	100%

At this stage, the numbers of Hampton residents expressing their disagreement with the proposal was higher than those agreeing with the proposal.

4.7 The new school will serve Hampton Water, Hampton Hamlets and part of the Residual sites. When fully built out the Hamptons East development will have approximately 3100 homes. So far 351 have been completed (see table below) of which 65 are in the area called Hampton Water. A further 531 will be built in Hampton Water. To date, only 10% of the homes in the area which the school will serve have been completed.

	Total Dwellings	Complete	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Hampton Water (Barratt)	269	65	50	50	54	50			
Hampton Water (Bovis)	327	0	60	60	60	60	60	27	
Hampton Hamlets	40	0	10	20	10				
Hampton Gardens	866	272	125	12 5	12 5	12 5	94		
Total	1502	351	245	25 5	24 9	23 5	15 4	27	
Hampton Residual Sites*	1648	0	50	80	80	80	10 0	15 0	15 0
Total	3150	351	285	33 5	32 9	31 5	15 4	17 7	15 0

(Peterborough City Council Five Year Land Supply, October 2019)

*Hampton Residual Sites build out forecast continues after 2025/26.

- 4.8 Whilst the Council needs to consider all views from the local area when making this decision, it cannot be assumed that the current views represent those of future residents who might move into the area. In order for the new school to be opened in time in September 2022, the Council necessarily has to make decisions now in order for that timetable to be met in order to ensure it is meeting the needs of future residents with regard to the basic need provision of school places. It also has to take a strategic view balancing all the factors it has to consider when taking the decision. **The consultation process is but one element that the Council has to take into account in its decision-making role.**

Table 3

Hampton Trajectory (Peterborough City Council Five Year Land Supply, October 2018)

	Total Dwellings	Complete	2019	2020	2021	2022	2023	2024	2025
Hampton Water (Barratt)	269	0	30	50	50	50	50	39	
Hampton Water (Bovis)	327	0	50	50	80	80	67		
Hampton Hamlets	40	0	5	15	15	5			
Hampton Gardens	866	98	125	125	125	125	125	100	43
Total	1513	98	210	240	270	260	253	139	43

We do not have housing trajectories for two further communities which will make up the Hampton East development (Hampton Beach and Hampton Woods). The expectation is that building will commence once the current Hampton developments are completed.

- 4.9 ***Under the DfE's "Consultation Principles: Guidance" document it states "Give enough information to ensure that those consulted understand the issues and can give informed responses". Although this is given as advice for proposers the council could have done more to provide factual information to residents. Complaints have been sent to the Director of Education that residents feel they have not received enough information about the options or the consultation process, which was only readdressed recently with a document sent to some residents on the 27th January. Even now residents do not understand the admissions/oversubscription policy. The council may have followed the Department for Education process but this does not mean that it is suitable considering the council was in the position to do more to inform residents about this contentious issue.***

The guidance also advises government department to “Consider targeting specific groups if appropriate. Ensure they are aware of the consultation and can access it”. This does not appear to have been considered in this case. For people who do not read the Peterborough Telegraph, spend time on the relevant pages of Twitter and Facebook or sign up to the Peterborough e-newsletter (4812 subscribers across the city) there was no effort made to inform residents specifically of the proposal. The Peterborough telegraph has printed a couple of inaccuracies concerning the story in the last few weeks which have confused residents about the situation and the process being followed. The council should have been a source of reliable and unbiased information.

- 4.10 The DfE’s *Consultation Principles: Guidance* is for government departments to use when conducting consultations. The RCDEA followed the *Opening and closing maintained schools, statutory guidance for proposers and decision makers (DfE November 2018)*. The requisite two stage process for a proposal to establish a new school was followed.
- Stage 1 - the initial 6-week consultation. The RCDEA conducted its initial Community Consultation (referred to in the DfE’s *Guidance* as *Pre-publication consultation*). All the representation information was sent directly to the RCDEA.
 - Stage 2 - 4-week statutory representation period was initiated and conducted by the RCDEA in line with the *Opening and closing maintained schools, statutory guidance for proposers and decision makers (DfE November 2018)*.
- 4.11 The RCDEA followed the DfE statutory process which is to notify the local media and take a formal advert in the press (21 November 2019). The RCDEA also sent a letter to local schools, Hampton Parish and Hampton Library asking them to display the notice in a prominent area. In addition, a copy of the Statutory Notice was sent to all the councillors who represent the Hampton area. All the representation information was sent directly to the Local Authority.
- 4.12 The Council made a press response as follows:
- A Peterborough City Council spokesperson said: "The Department for Education approved a bid for funding for a new faith school in Hampton Waters earlier this year. The Roman Catholic diocese was the only faith denomination to submit an application for this. A statutory notice was published by the Roman Catholic diocese in November, marking the beginning of a four-week representation period which gives residents the opportunity to have their say. This four-week period will end on 19 December. In the New Year, the responses will be fully considered and a decision will be made on whether or not to grant approval for the new school to open."*
- Comments can be submitted to consultations@peterborough.gov.uk*
- 4.13 This resulted in a number of articles published in the Peterborough Telegraph. It also was mentioned in:
- E-Newsletters to residents - 13 December, 6 December, 29 November, 6 November
 - Social media (Facebook and Twitter) - Once a week from 6 November until the end of the consultation period.
- 4.14 A paper was presented to the Children’s and Education Scrutiny meeting on the 17th December 2019 (published on the 13th December) that outlined the first stage of the process. Members of the public had the opportunity to speak at this meeting prior to the decision being made.
- 4.15 In short, the proposal was brought to the attention of the public in a variety of ways so that they could engage with and respond to it.
- 4.16 The Council is the decision maker and therefore it would not have been appropriate for it to contact residents directly as it was not the Council’s proposal. The Council does not contact residents about the proposals to open new schools via the other routes available to proposers, namely the central free school programme or the free school presumption process. The most

appropriate source of information regarding this proposal is from the proposer itself, i.e. the RCDEA.

Admission arrangements (appendix 5 of the Cabinet Member Decision Notice)

- 4.17 All schools/admission authorities must abide by the statutory School Admissions Code. All schools must admit up to their published admission number (PAN) in the year of entry to the school so places cannot be reserved for faith and must be given to those that applied on time. The following examples may be helpful to illustrate this.
- 4.18 For a primary school the year of entry is Reception. The PAN for the opening year in Reception will be 30 for a 1 form entry (FE) (210 place) primary school.

The RCDEA's proposal, permissible under the School Admissions Code, sets out oversubscription criteria which safeguard a guaranteed number of places for the children living in the local community based on distance from the school, and regardless of faith. These are referred to as 'Open places'. In the case of this school the RCDEA proposed oversubscription criteria are split 80% foundation (faith) places / 20 % Open places.

The oversubscription criteria proposed by the RCDEA are as follows –

1. Baptised Catholic looked after and previously looked after children.
2. Baptised Catholic children.
3. Other looked after and previously looked after children.
4. Catechumens and members of an Eastern Christian Church.
5. Children of other Christian denominations whose membership is evidenced by a minister of religion.
6. Children of other faiths whose membership is evidenced by a religious leader.
7. Any other children.

This 80% / 20% split will only apply if there are more applications than places.

- 4.19 Example 1 – 30 pupils or fewer apply for a school place (applications received on time). All children must be offered a place regardless of where they live and whether they are Roman Catholic, of another faith or of no faith.

- 4.20 Example 2 – 31 pupils apply for a school place - the school's **over-subscription criteria** will come into play.

This will mean that the standard allocation of places would be as follows -

- 24 places on foundation (faith) criteria i.e. 80%
- 6 places on open places criteria i.e. 20%

Applying this methodology, the following scenarios apply

- (a) 10 Catholic Children apply and 21 non-faith children.

The first 10 places (80%) will be allocated in accordance with the foundation place criteria (criterion 2) with 14 places allocated under criterion 7 - Any other children (based upon distance).

The remaining 6 places will be allocated under Open places with non-faith Looked After Children (if any) followed by any applicant based on proximity with the child living furthest from the school being refused a place.

(b) 26 Catholic children apply and 5 open place children.

The first 24 places will be allocated in accordance with the Foundation place criteria (criterion 2).

The remaining 6 places will be allocated in accordance with the Open place criteria. So, after any non- Catholic Looked after children (criterion 1) the remaining places would be allocated by proximity with the child living furthest from the school being refused a place. The 2 Catholic children refused a place under the Foundation place criteria would still be considered under the Open place criteria alongside all other applicants.

It should also be noted that another school in Peterborough, The King's School (The Cathedral School) is a VA Church of England School. It operates similar faith admission arrangements as that proposed by the RCDEA but in addition, unlike the proposed RC primary school, King's is selective in that it selects 15 of its 135 places annually to Year 7 pupils joining the school on ability (musical and academic). This has been operating successfully and without challenge for many years.

4.21 Late applications will be dealt with in a subsequent admissions round once all the on-time applications have made so they do not affect the allocations above. The over-subscription criteria are applied to the reserve list for the school where there is a reserve list. As with any school that opens, we will review applications and, depending upon the number, the Council will request a further class if demand exists for places from the local community.

4.22 Application for places for a child who has an Education, Health & Care Plan (EHCP)

As EHCP applicants have top priority under the School Admissions Code, their allocation of a place would be taken off the foundation places to start with. As long as the EHCP application was allocated before the admission round offers, the number of places available to be allocated will be reduced accordingly on the same 80/20 split. The table below illustrates - with numbers rounded to nearest whole number.

EHCP	80%	20%
0	24	6
1	23	6
2	22	6
3	22	5
4	21	5
5	20	5
6	19	5
7	18	5
8	18	4
9	17	4
10	16	4

Under the *School Admissions (Infant Class Sizes) (England) Regulations 2012*, outside of the normal admission round, a pupil where the school is named on its EHC Plan will be admitted to the school but will not be counted as part of the PAN. Criteria for faith or otherwise does not apply.

Future admission arrangements

4.23 All admission authorities must determine (i.e. formally agree) admission arrangements every year, even if they have not changed from previous years and a consultation has not been required. Once admission authorities have determined their admission arrangements, they must

notify the appropriate bodies and must publish a copy of the determined arrangements on their website displaying them for the whole offer year (the school year in which offers for places are made). Admission authorities must send a copy of their full, determined arrangements to the Local Authority.

- 4.24 As the proposer of the school, the RCDEA is not obliged, at this present time, to publish its admissions criteria beyond the opening year. However, the RCDEA has confirmed that the admission arrangements for this school, including the provision of 'Open places' will be reviewed annually by the school governing body (the Admission authority for the school).

In accordance with the statutory School Admissions Code, all admission authorities must determine (i.e. formally agree) admission arrangements every year by 1 March, even if they have not changed from previous years, and if a change is proposed, consult on the proposed changes. Consultation must last for a minimum of 6 weeks and must take place between 1 October and 31 January in the determination year, for implementation the following September i.e. admission arrangements for September 2021 will be determined in February 2020.

For the purposes of determining admission arrangements Admission authorities must consult with:

- a) *parents of children between the ages of two and eighteen;*
 - b) *other persons in the relevant area who in the opinion of the admission authority have an interest in the proposed admissions;*
 - c) *all other admission authorities within the relevant area (except that primary schools need not consult secondary schools);*
 - d) *whichever of the governing body and the local authority who are not the admission authority;*
 - e) *any adjoining neighbouring local authorities where the admission authority is the local authority; and*
 - f) *in the case of schools designated with a religious character, the body or person representing the religion or religious denomination.*
- (Section 1.44 of the Schools Admissions Code (2014))*

- 4.25 The Local Authority has had a number of discussions with the RCDEA to ensure that as the school grows, officers and the governing body will work together to ensure the admissions criteria continue to reflect the needs of the community. At the December Scrutiny meeting the RCDEA representative who addressed the Committee confirmed that: *If pupil numbers increase significantly between now and 2022, we (i.e. the Diocese) will work with the City Council to decide whether more than three classes need to open in the first year.* Essentially, if in the first few years upon opening there is need for an extra class(es) to be opened the RCDEA has confirmed that it is happy to do so and places will be allocated according to the published over-subscription criteria which would meet the local demand too.

- 4.26 ***The council would not agree to hold a meeting for Hampton Water residents as requested by them (via Cllr Haynes 28th November) as an impartial source of information.***

- 4.27 The Council is the decision maker and therefore it would not have been appropriate for it to hold its own consultation events as it was not the Council's proposal. This was clearly articulated to Cllr Haynes at the time of request. Officers have answered members' questions throughout the process and responded to public feedback as outlined in appendix 5.

- 4.28 ***Residents felt that they were unable to get any support from their local ward Councillors and that what interactions took place they felt suggested a bias towards agreeing with the proposal. Residents feel that this hindered their ability to coordinate an effective and timely campaign to garner the opinion of those living in the area. They only initiated the petition after meeting with Cllr Murphy at a meeting of the National Secular Society on the 28th November.***

- 4.29 This is an issue for the ward councillors to address and cannot be considered directly as part of the response to an Executive decision. The decision covered a wide range of factors as outlined in the original decision notice.
- 4.30 ***Many questions concerning the data could not be asked or went unanswered at the scrutiny committee as the consultation data presented was from the Diocese, while the council's own consultation was still on-going. Information that sorted respondents into those living in Hampton water and the city itself against their responses was only presented upon request at the meeting.***
- 4.31 As outlined in the Scrutiny meeting, this is to do with procedure for how Scrutiny is conducted. There was an RCDEA representative in attendance, but other than speaking for her allotted 3 minutes she was not allowed to provide information which would have been helpful in responding to some of the questions Committee Members asked. Where required follow up information was provided following the meeting.
- 4.32 Officers presented at the panel the information the Diocese had collated to inform their decision making to proceed to the second stage. This decision was not the Council's to make. At the time of the committee meeting, as outlined, the second stage was still running. To reiterate, this was the RCDEA's consultation process and not the Council's. All information provided to the Council was included in the report.
- 4.33 Information was provided where requested to members of the panels and to subsequent questions.
- 4.34 ***A comment is made on page 9 that parents currently sending children to one of the two RC primaries in the North of the city may bring their children to the RC school in Hampton Water. The fact that only 2 parents attended the two consultations held at the existing schools suggests that there is not a strong desire for parent with children at these two schools to relocate them and the council policy is generally to put parents off moving children between schools due to the destabilising effect on the children (Education and Scrutiny meeting January 2020).***
- 4.35 There is not necessarily a direct correlation between the low numbers of attendees at the consultation events held at the two existing primary schools and the likelihood, or not, of families moving their children from one of those two schools to a new RC primary at Hampton Water. The low level attendance could be attributed to any number of things, such as a reluctance on the part of the residents of Peterborough to find out more about what a catholic primary education entails, or to the fact that local people were not interested in hearing about the proposal or felt they already had sufficient information from other quarters about it.
- 4.36 The comment from the Service Director report relates to moving children between schools in-year. A number of parents choose to send their children to schools outside of their catchment school and indeed the government promotes parental choice in admissions.
- 4.37 ***The Hampton Waters estate is unfinished and there is no way to predict the religious make-up of its future residents or what type of school they would want, other than a good one, as all parents hope for.***
- 4.38 As a result of the need to have new primary schools open for first residents moving into new developments, it will always be the case that the community that the school will serve either does not yet exist or is fledgling when plans are enacted to establish the school. The Council therefore has to take a strategic view at that time.

- 4.39 The VA route is the only means by which the Council is the decision-maker when opening a new school. The other two routes are either via the DfE's central free school programme or the free school presumption route. The DfE is the decision maker in both of the latter two instances. The process followed in this school proposal mirrors the arrangement that led to the establishment of St Michael's C of E VA Primary at Cardea (Stanground) in 2010. Whilst this was a competition under the Education and Inspections Act 2006 (EIA) rather than a VA funded route, the statutory DfE Guidance was duly followed (just as it has been on this occasion) and no objection was raised around the appropriateness of the process or the faith designation of the school.
- 4.40 The Cambridgeshire County Council's Research Team produces Peterborough's general population forecasts. For this work the team regularly review the demographics of new developments. This work is published on 'Cambridgeshire Insight'. Hitherto, providing precise statistics on religious make-up has not been a priority for this work. However, as a general observation, the evidence points to new developments being 'diverse' places. In other words, there is no reason to think that the specific demand for faith-based education will be any less there than anywhere else.
- 4.41 In terms of forecasting demand for school places; where parents have a choice of schools, in practice the main concern is for a 'good' or 'outstanding' standard of education. Where schools provide this, regardless of the faith-based nature of the school, they prove popular.
- 4.42 **4.2 Demand vs need & 4.6 Equal opportunity issues**
In light of the number of pupils needing school places previously exceeding forecasts in the area (Education Organisation Plan) the impact of the school based on the 80/20 faith/distance admissions numbers may end up being an underestimate. If the school changes this to 100% selective faith admissions and becomes over-subscribed this situation could worsen.
- 4.43 The Council has had a number of discussions with the RCDEA who have confirmed their on-going commitment to work together with the Council as the school grows to ensure the admissions criteria reflect the needs of the community. The Local Authority would object to any proposal to increase the selection figure based on faith and make representation to the Office of the School Adjudicator if this were the case.
- 4.44 ***The likelihood of the school becoming oversubscribed is downplayed. There are 40 places elsewhere in the city available for Catholic parents to send their children to if they wish to, but they do not. This suggests that the RC primary that is currently oversubscribed is not over-subscribed due to Catholic parents sending their children there in large numbers (neither existing RC primary school in 2019 had 100% of reception applications coming from Catholic parents). There is a paradox between the apparent demand for a Catholic education which will be satisfied by this school (appendix 4, page 3), while at the same time having plenty of places to accommodate local children (Report to cabinet member, page 6).***
- 4.45 Pupil forecasting is an inherently uncertain activity due to the many elements over which the Council has no control such as the unpredictability of development timing and build-out rate. The Council uses a variety of planning tools, including local data sources, current demand and capacity, and modelling against other new local developments to inform its assessment of basic need for school places. Our experience tells us that as the Hampton development matures, the demand for school places will start to return to the City average. This has been the case in developments such as Werrington.

- 4.46 **4.7 Community integration**
Any school can integrate into a community, it is not an exclusive characteristic of Catholic faith schools. The potential competition created between parents for a limited number of places will have a negative impact on community relations and was a cause for concern in a number of resident's responses during the Council consultation. This is also recognised in the DfE's Equalities Impact Assessment concerning VA schools (point 56).
- 4.47 Section 56 of the DfE's Capital scheme to support the establishment of new voluntary aided schools: Equalities Impact Assessment (December 2018) states:
 As VA schools can select up to 100% of pupils by religious criteria, there might have been a risk of a negative effect on good relations and mutual understanding between pupils and parents of those faiths, and those who are not of that faith.
- 4.48 ***In a pamphlet co-authored by Charles Clarke and Linda Woodhead, it was identified through conversations with the Catholic Education Service that "there is a considerable difference between the majority of Church of England schools, which exist to serve the whole local community, and Roman Catholic and many other faith schools which exist primarily to educate the children of parents who share that faith, and to pass on that faith". The impact on the community of a school rejecting local children on the basis of their parent's faith and the potential for parents to "play the system" and do all they can to secure their child a place at a convenient school is ignored, although such a thing is obviously difficult to measure. It is simply assumed that the school will be welcomed and able to integrate in a meaningful manner into the community.***
- 4.49 The following is a quote from the Headteacher of the Sacred Heart Primary School "All new schools take time to settle into their new surroundings and new communities. We play a positive role in our community; foodbank, local care home visitors, singing at Sainsbury's, working with other cluster (non-Catholic) school. We are an important part of our local community and are positive contributors to the Bretton community."
- 4.50 **4.11 Suitability**
The Council is satisfied that the evidence provided by the RCDEA's application to the DfE demonstrates that the proposed new school will meet the requirement regarding SMSC education but no information has been given to the scrutiny committee or the public for them to evaluate. There are concerns about the impact of Catholic doctrine on young children, addressed later in this document.
- 4.51 Both Catholic schools were open for consultation evenings for anyone to look around and see what they do; no members of the public attended. This would have been a perfect opportunity to see what they teach, including Religious Education. Pupils at both schools study and celebrate world religions. They have a Community multi-faith prayer room which is open to everyone to use.
- 4.52 Working with the RCDEA's Catholic schools in Peterborough, the Council has evidence of the broad and balanced curriculum that is offered. The RCDEA do not apologise for running Catholic schools with a Catholic/Christian ethos. Its schools still teach within the requirements of the National Curriculum and the legal documentation. They also have a pastoral care for those children and families who belong to other faiths or none. They do not catechise, they educate. Sacramental preparation and catechesis happens at parish level. The RCDEA would welcome the opportunity for any Members to visit its schools and witness how they function and to see their diversity and cohesion. The schools promote British Values and St Thomas More has been judged outstanding by Ofsted for Personal Development, Behaviour and Welfare.

4.53 **4.8 Travel access**

Sustainable travel routes from the city centre have been identified, but there is no guarantee that these will be used by those coming from outside the area. There is no estimate given on how many parents will use which type of transport based on other RC primary schools where parents may drive from outside traditional “catchment areas” to take their children to school. This does not support the work on the council and its declaration of a “climate emergency”.

Although there are other schools within 1 mile of Hampton Water the reality is that many parents will chose to drive their children to school for a number of reasons. These will include time constraints with parents needing to get to work after dropping children off at school and the dangers or unpleasant nature of walking very small children along the A15 and all the car fumes from stationary traffic, which will get worse if parents from outside the development place their children in the new school.

4.54 Regardless of the type of school it is never possible to guarantee what means parents will choose to get their child to school. A robust School Travel Plan (a requirement of the planning process) which is kept up to date and actively reviewed, and education of children and parents, are all means of maximising the potential for the use of sustainable methods of travel (walking, cycling, bus) to attend this school. There are still many houses to be built on the development which the new school will serve and a percentage of those parents will choose the new school. It is not only Catholic parents who choose Catholic schools but also those of other faiths and none who agree with the values-based education that they perceive to be available to them

4.55 The RCDEA does not encourage its parents to travel long distances to attend its schools, nor is there evidence to suggest that this will be the case with the proposed new primary school. This is borne out by the information below from the St Thomas More and The Sacred Heart Primary Catholic primary schools in Peterborough.

4.56 St Thomas More RC VA Primary School has been Peterborough Bike-IT Champion for the last 4 years and in the top ten nationally. The school actively promotes sustainability and is a champion because its whole school community support it in this.

The school has a Published Admission Number of 60 i.e. total capacity for 420 pupils.

Currently there are 415 on roll with 50 children on the reserve list (spread across all year groups which are full with the exception of Yr 2 which has spaces). Of these:

296 children walk to school

116 are driven to school

3 get public transport

4.57 361 of the 415 children on roll live in the PE1 post code. The school’s post code is PE1 5JW
The following table shows the postcodes of pupils attending the school as at January 2020.

Postcode	Reception	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Totals
PE1	53	57	55	54	50	49	51	367
PE2	2	2	3	3	8	3	4	25
PE3	4	1	2	1	1	0	2	11
PE4	0	0	0	2	1	3	1	7
PE5	0	0	0	0	0	0	0	0
PE6	0	0	0	0	1	2	0	3
PE7	0	0	0	0	0	2	0	2

- 4.58 Sacred Heart Primary School
Sacred Heart has seen a considerable change in its school population within the last 5 years. Currently 78% of children attending the school come from within its 'catchment area', less than 1 mile away.
In 2019, 83% of children started in Reception class from within the catchment area and children were admitted from within 0.455 miles. (Source - 'Starting Infant or Primary School Transferring to Junior School in Peterborough City 2019/20 – Guide for parents')
- 4.59 ***Follow procedures and be fair***
The policy on making a decision about faith schools is flawed and allows for the process to be hijacked by national groups on either side of the argument and the data presented does not satisfy the policy points that we were unable to scrutinise properly as we were not questioning the Diocese.
- Scrutiny meeting – December 2019.***
During the scrutiny committee pre-meeting it was made clear that it was only the decision-making process that could be scrutinised (despite the Council portion of the consultation process still being ongoing and therefore limiting the extent of the scrutiny) and not the appropriateness of a faith school in an area of need. When the report going to the Cabinet member covers their due regard to “eliminate discrimination” and the need of the school to meet the requirements of the Equality Act 2010, these issues should be up for discussion.
- 4.60 The report presented in December to the Children & Education Scrutiny Committee was to ensure that the committee were updated on the process and had a clear understanding of:
- 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
 - how the final decision regarding the RCDEA's proposal will be made
- 4.61 ***Unmet local demand for additional relevant faith provision.***
4.1 Consultation.
Local demand has not been established via the consultation (for reasons stated above).
- 4.62 It is correct that there are 40 RC places available in the City's existing two RC primary schools not filled by RC children. That is currently the case. The DfE supported the RCDEA's submission which included a section on demand. A new primary school is required on the Hampton Water site by September 2022. The RCDEA's proposal document states: *the RCDEA has records of 347 baptisms of children due to start school between 2021-2023 in the south of Peterborough. There is a notable need within the parish of St Luke's of which the Hampton area is part.*
- 4.63 It is possible that parents of the youngest RC children do not want them to have to attend an RC school several miles away from where they live in the south of Peterborough but will welcome the chance for a faith education for them that is only a mile or so away. Meeting a faith demand need does not mean filling a school with children of the same faith and the Council continues to welcome diverse schools.
- 4.64 ***Although the council has addressed the mentioning of S106 money, it appears that the arguments have been dismissed rather than considered.***
- 4.65 They have not been dismissed. The legal advice officers have received is very clear and succinct as follows:
- the S106 agreement does not stipulate that the primary schools must be free schools, nor is there any restriction on either of those schools (or both) being faith schools

- had it been intended that the primary schools cannot be faith schools, the 106 agreement would have stipulated as such
- it can be demonstrated that the single faith school meets (or largely meets) the educational needs of the occupiers of the development
- that the S106 agreement is between the Council and developer and does not create legal rights/duties as between the Council and residents

4.66 ***As per the Service Directors report presented to the scrutiny committee in January 2020, it states that that purpose of these contributions from the developer are “to provide the required education infrastructure in order to ensure the effect of the development is mitigated”, rather than dealing with an existing issue elsewhere in the city which is not the purpose of such funding. The reason for the RC school is due to a demand from elsewhere in the city. Other councils in the country have acknowledged that use of this money for a school with “any restrictions on admission policy will need to be carefully considered” [Leicestershire County Council]. This does not seem to be the case in this decision. Just because it is not a legal right/duty and because it did not stipulate that the primary school could not be a faith school is not a reason to simply accept the first school proposal that is presented if it is not right for the community.***

4.67 There is a basic need argument for a primary school at Hampton Water. There are no compelling reasons to turn down the proposal that this school should be a RC VA school. We do have a requirement to open a primary school in September 2022 and currently there are no other options that meets this timescale.

4.68 ***An established trend where parental preference for places in existing denominational schools exceeds the number of places available and this is forecast to continue in the foreseeable future***

The over-riding demand in Hampton Water from residents' comments is for a school where children can grow up with children of many faiths and none, the largest concern from the residents was the ethos of the RC school itself (appendix 2). With church attendance falling fewer parents are going to choose to send their children to a faith school for the specific ethos rather than for convenience.

4.3 Proposed Admission Arrangement

Based on 2018 and 2019 admissions data there is not an excess of applications from Catholic parents for places in the current RC faith schools to the point where they cannot meet demand (refer to the comment about 40 available places stated (Report to cabinet member, page 6) and no data has been presented about when they may no longer be able to meet these needs based on current trends.

4.69 The County Council Research Group (which produces the pupil forecasts) forecast total demand for school places, not demand for specific faith-based education. However, the current forecasting model assumption is that the existing Catholic primary schools in Peterborough continue to provide the same balance of places for Catholic children and for children within their local communities. For example, St Thomas More draws 58% of children from its local area on a non- Catholic faith basis.

Church attendance is not falling in the Catholic Church as it is in the Church of England and certainly not in Peterborough where the RCDEA reports having a large Polish, Portuguese, and Eastern European community, of whom most are Catholic. According to the Parish Priest of St Luke's Church, the parish that serves the area where the new primary school would open is bursting at the seams from current families and recently from a high rate of new Catholic families turning up each week. These same Catholic families are also residents in the local area of the proposed new school. (see para 4.62 above)

- 4.70 ***The potential for denominational provision to alleviate the demand on places in schools in areas of high basic need.***

Appendix 4 Quality Impact Assessment

The assessment says “Overall this carries with it a medium level of risk with regard to the future availability of places at the school for local children without faith.” The level of risk is not quantified or explained.

- 4.71 The phrase ‘medium level of risk’ refers to the level of reliability of the pupil forecasts upon which the judgement on there being sufficient places is based.

In this case, if the forecast intake (demand for school places at Reception entry) is within 40% of actual intake, **four years ahead** of time then there will be sufficient school places (based upon the prospective new RC school supporting the same proportion of its local community as St Thomas More, Peterborough does as present).

- 4.72 As stated previously, the forecasts are supplied by the Research Group at Cambridgeshire County Council. The forecasts are very accurate **one year ahead**; the team’s most recent accuracy assessment identified 93% of school intakes within ± 10 pupils and 83% within ± 5 pupils. Of the remainder changes in parental preferences due to adverse inspection reports, were the main cause of inaccuracy; a factor that sits outside the modelling. Further ahead in time accuracy reduces, however the previous accuracy assessments are still good, indicating over 90% of forecast intakes are within 40% of actuals. This situation was summarised in the original report as a ‘medium risk’.

- 4.73 ***4.2 Demand vs Need & 4.6 Equal opportunity issues***

This criterion leads to a situation where any application for a faith school in any area of need would be viewed positively, which is clear at numerous points in the report and in the final decision that this is “the most cost efficient of the options available to it at this time”. The discussion on whether a faith school, with all the extra controversy it provides, would be able to meet the areas needs was not allowed to be discussed at scrutiny committee. It may be a legitimate part of the educational landscape on paper at the moment, but is it what is best for our children?

- 4.74 The decision made by the Cabinet member focuses on the proposal made by the RCDEA not on the faith education as there is currently no alternative available that will meet the timescales for delivering a school. This will affect the Council’s ability to meet its statutory duty for school places. A paper was taken to Cabinet in June 2019 which outlined the Council’s approach to faith education. No comments were received on this proposal at the time.

- 4.75 ***Potential confusion in report.***

This document was written for the Cabinet member to aid them in their decision making but it was available publicly on the council website. The text on page 10 refers to a cost to the council of between £5.5 and £7.5m if this school is not built. This is not the case as the DfE funds the school as there is a “basic need”. This is stated in the table on page 9 but may not be clear to those who read it. This report may be the only detailed information Hampton Residents have access to and could be clearer.

- 4.76 For the sake of clarity there are three possible routes to establish the primary school required at Hampton Water (see table 4 below). Of these options, two have costs attached to them. If a sponsor is approved by the DfE through its central free school programme the capital project to deliver the school would be funded by the DfE. However, this would result in reduced future Basic Need allocations to the Council from the DfE. The Council’s current allocation for basic

need is fully committed against exiting schemes which include creating additional capacity at our special schools at Marshfields and Heltwate.

Table 4

Option	Route to open new school	Funding available	Cost to the Council	Note
1	VA faith school	90% capital funding provided by DfE	Between £1.1m and £1.5m maximum	90% capital funding already approved
2	Central free school	100% construction costs met centrally by the DfE	Additional capacity created by centrally funded free schools is reflected in reduced future BN allocations to the Council	Wave 13 application refused. Outcome of Wave 14 application will not be announced by DfE until summer 2020
3	Free school presumption (Council led competition process)	Construction costs met by the Council from within BN funding allocation/developer contributions	As per the s106 'shell and core' agreement i.e. 50:50 split between the Council and the developer, each contributing between £5.5m and £7.5m depending on final cost of project	Would need to await outcome of Wave 14 before this option might be pursued

4.77 ***Same sex marriage became law in 2014, yet we will allow children 6 years later to be told that these relationships are not viewed 'favourably' by the organisation running their school and the consequences they believe will befall them if they act on their feelings. What if a child from a same-sex relationship ends up placed in the school as the other schools in the area are full? The DfE may allow schools to discriminate and pass on their faith-based opinions on what are now legally recognised marriages and civil partnerships to impressionable young people – but it should be debated if this is what we want for the children of Peterborough. Residents expect it to be debated.***

4.78 The timing of the decision and scrutiny meetings meant that it was not possible to debate the wider issues of the proposed new school due to the general election and the statutory representation period closing on 19 December 2019. However, as members have exercised their right to call in the decision, these can be debated in this stage of the process.

4.79 The teaching of Relationship and Sex Education (RSE) in the RCDEA's schools is fully in line with the requirements of the law. The teaching staff will explain to children why the Church teaches what it does, just as they also explain what other faiths and people believe. There are children and staff in the RCDEA's schools who come from all different combinations of family structure including those with parents in a same sex relationship. The role of the school is never to be judgemental, but to be inclusive. The aim is to give the pupils inquisitive and enquiring skills so that they can make informed decisions about all aspects of their lives. The key points are that in addressing this subject in RC schools, staff:

- teach everything that they are required to do by law and at an age appropriate level, as required by DfE guidance
- definitely acknowledge that same sex marriage exists
- do not stigmatise any child, parent or member of staff who do not hold Catholic beliefs, whatever the topic

- respect the fact that people have different views and beliefs
- talk about all types of family structures because they are aware that in any class there will be many different experiences and different family units.

- 4.80 St Thomas More has currently, and has had in the past, pupils who are from same sex marriages. In its RE syllabus it teaches that all families are different and accepted and embraced in their community. Its RE syllabus explores the theme of love within family units, regardless of their make-up.
- 4.81 Equally, at Sacred Heart children from same-sex families have attended as recently as last year. There was never an issue of favour or the idea that anyone is viewed differently. The school teaches that relationships need to be formed and rooted in love, trust and respect. This is no different to any other school
- 4.82 ***The practice of rotating questions between members during the scrutiny committee meeting rather than allowing them time to respond to an officer's response (due to the preference of the committee chair to allow everyone the opportunity to speak) meant that answers that were given could not be investigated in depth.***
- 4.83 This does not sit within the Cabinet Member Responsibility. Clarity has been sought from the Chairman and Monitoring Office who outline that the management of a committee meeting is at the discretion of the individual Chairman.
- 4.84 **Act for a proper purpose and in the interests of the public.**
- 4.85 ***Acting for a proper purpose is difficult to judge objectively. My opinion of the consultation meeting in Hampton Vale and subsequent contact and information I have seen from residents living in the development was that many did not understand the workings of a Catholic school in terms of the admissions policy and the extent that Catholic Practices permeate the education on offer.***
- 4.86 From the issue raised, it is not possible to identify who "My" and "I" are in this joint scenario so the following is a generic response to the issue raised.
- 4.87 Information about Admissions was available on the RCDEA's website and within its proposal. The RCDEA's adviser on Admissions attended the public meeting held by the No More Faith Schools campaign in Peterborough on 28th November and residents could have asked questions about Admissions and any other issues at any and all of the consultation events held by the Diocese during the pre-publication consultation period.
- 4.88 The following is a quote from the Head Teacher of St Thomas More RC Primary School re 'the extent to which Catholic practices permeate the education on offer: "The values we uphold and celebrate each month include forgiveness, co-operation, trust, respect, love, tolerance, generosity and equality to name a few. Our diverse community supports our school ethos and we do not have any children withdrawn from any aspect of the school's curriculum. This view is so far removed from our daily life at school. We do say prayers and children may choose to participate or not, but are respectful of each other at all times."
- 4.89 The following is a quote from the Head Teacher of Sacred Heart RC Primary School. "We have a strong ethos that runs throughout the school; respect, trust, honesty, care, generosity. These are not 'Catholic Values' these are values that we want all our young people to have in all our community schools."
- 4.90 ***There is not enough demand for a Catholic primary education that this school will be filled with children of Catholic parents. Yet this school will impose the Catholic ethos on all***

children sent – many of whom will be sent by their parents simply because of convenience rather than support of the ethos.

- 4.91 All schools have a clear vision for their families and children so their learners can go into their next phase of education as contributors to life. Families at the RCDEA's schools embrace the school message (it is not imposed on them), and support and promote the school ethos including those non-Catholic families. Parents will always have a choice and even though they are not Catholic they can still identify with many of the values promoted in the school. Parents are able to withdraw their children out of RE lessons by drawing on the 1996 Education Act, which states that a parent can request that for their child to be wholly or partly excused from religious education and religious worship in the school.

The Headteacher of St Thomas More Primary School reports that: "we do not have any children who have been withdrawn from any lessons apart from one parent who asked for her children not to have SRE lessons. All children attend assemblies and Masses, but do not have to participate."

- 4.92 ***It seems discriminatory to tell parents in this development that if they do not want their children to receive a Catholic education, perhaps due to the fact that they are in a same-sex relationship and do not wish for their children to be told that this is wrong and sinful, that they can simply go elsewhere. This seems to be prioritising people of faith over those of none.***

The LA may have a statutory duty to secure diversity in the provision of schools and increase parental choice, but this should not mean that any faith school application is immediately accepted. Does Peterborough not provide enough diversity of education, are we under a time constraint from the DfE to increase the number of faith schools in the area?

- 4.93 The proposal has been subject to significant review and scrutiny against the criteria laid down by the DfE. The Council is under no obligation to increase the number of faith schools. However, it does need to ensure that it continues to meet its statutory duty to provide sufficient school places and to promote diversity of education in the City.

- 4.94 ***Increasing parental choice for one group invariably decreases it for someone else. Residents who would refuse to send their children to a Catholic school due to strongly held personal beliefs are being ignored and are not as respected as those with faith, which is discriminatory.***

- 4.95 Families who do not wish their child to attend a faith school have the opportunity to express a preference for other schools, of which there are 4 within a 1-mile radius of the Hampton Water Primary school site. Currently those who would like a faith education for their child(ren) will have to travel 4.7 miles to the nearest RC primary. So, this proposal redresses the current imbalance. The Council has a duty under the Public Sector Equality Act (s149 Equality Act 2010) 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. Therefore, there are a number of considerations to weigh up. In a development of the size of Hampton, offering choice to Hampton residents is appropriate. With the introduction of a VA school this means Hampton offers 20% of the primary provision as faith. Elsewhere in the city, 18% of primary schools are directly delivered by faith organisations. This increases to 25% if you include schools that are Voluntary controlled (schools maintained by the Local Authority, but with a distinctive Christian characteristics and Diocese appointed governors)

5. CONSULTATION

- 5.1 See section 4.3 to 4.16 above.

In addition

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 The anticipated outcome of this report and attached appendices is that the Children and Education Scrutiny Committee will have a clear understanding of:
- (1) what the Cabinet Member for Children's Services, Education, Skills and University must take into account as decision-maker and how that decision was made, and
 - (2) that the Committee will be able to support the Cabinet Member's decision to approve the RCDEA's proposal

7. REASON FOR THE RECOMMENDATION

- 7.1 A new primary school is required at Hampton Water by September 2022.

The demographic analysis at **Appendix 3** has been considered in the decision-making process.

Whilst not universally popular with the respondents to the consultations, VA RC schools are a legitimate part of the education landscape and recognised by the DfE. As such the foundation owning the land and buildings 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 when there are more applications than places available.

All the elements which the decision maker must consider, as set out in the statutory guidance and detailed in section 4 above have been evidenced and taken into account.

In making this decision the Council fulfils its statutory duties under:

- the Education & Inspections Act 2006 and
- the Public Sector Equality Duty (s149 Equality Act 2010)

The decision to approve the RCDEA's proposal is the most cost efficient of the options available to the Council at this time.

For those families living in the Hampton Water development and the wider Hamptons East area who do not wish their child(ren) to attend a VA faith school they are able to express a preference for any school, including Hampton Waters Primary which also serves the Hamptons East, and the other primary schools on the wider Hamptons development listed in section 4.6 above. All of these schools lie within a 1-mile radius. **See appended map.**

- 8.
- 8.1 There is a basic need for a second primary school at Hampton Water 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. An application has been submitted under Wave 14 but the decision on this is not expected until summer 2020.

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 to await the outcome of Wave 14 of the central free school programme. If that is not approved the Council will need to run a competition to identify a new sponsor to recommend to the Secretary of State for approval in order for the Council to meet its statutory place planning duty. Both of these scenarios would significantly delay the building and opening of the school.

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 fund the 10% balance and allowances have been made for this within the Council's Education Capital Programme.

The Finance Business Case has been approved by Head of Finance (People & Communities Directorate).

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 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.

9.4 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.

9.5 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*

9.6 Rural Implications

Not applicable

9.7 Carbon Impact Assessment

The new primary school at the Hamptons East, has received in principle agreement for 90% funding by the DfE following a successful VA Capital bid by the RCDEA. The Council is proposing to self-deliver the design and build of the school in line with the DfE Output Specification for Schools and procure via the DfE Contractor's Framework which are a pre-requisite of self-delivery and DfE capital.

The school will be built to current standards in line with the DfE capital funding requirements and Output Specification. Whilst it would be theoretically possible to go further in regard to designing the schools to ensure that their carbon impact is minimised, the funding does not allow for this in this instance.

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>

10.2 ***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

11. APPENDICES

11.1 Appendix A- Cabinet Member Decision Notice (27 January 2020) entitled 'Proposal to open a Voluntary Aided Roman Catholic Primary School at Hampton Water on the Hamptons East Development'.
Appendix 1- The RCDEA's full proposal containing prescribed information, including outcome of its pre-publication consultation
Appendix 2 - Summary of statutory representation responses
Appendix 3 - Demographic report
Appendix 4– Equality Impact Assessment
Appendix 5 – Statement from Headteacher of St John Fisher RC VA High School