

Cabinet 25 November 2020	 TOWER HAMLETS
Report of: James Thomas, Corporate Director Children's and Culture	Classification: Unrestricted
Outcome of the consultation on the proposal for the closure of St Matthias CofE Primary School	

Lead Member	Councillor Danny Hassell, Cabinet Member for Cabinet Member for Children's and Culture Services
Originating Officer(s)	Terry Bryan, Service Head for Pupil Access and School Sufficiency and Ikwi Mkpuru, School Organisation Manager.
Wards affected	All Wards
Key Decision?	Yes
Forward Plan Notice Published	7 th July 2020
Reason for Key Decision	Impact on Wards
Strategic Plan Priority / Outcome	A better deal for children and young people: aspiration, education and skills

Executive Summary

Formal consultation has been carried out on the proposal to close St Matthias CofE Primary School, with effect from 31st August 2021. The stage one consultation process was carried out during the period 8th June to 30th September 2020 and a Consultation Report, which describes the findings, is attached as Appendix 1 and has also been published on the Council website. It makes recommendation to move to the publication of a statutory notice in respect of the proposal to close St Matthias CofE Primary School. During that statutory notice period, legal objections can be set by any consultee, which would need to be considered before any final determination is taken.

Recommendations:

The Cabinet is recommended to:

1. The recommendation is to move to the publication of a statutory notice for 28 days, in respect of the proposal to close St Matthias CofE Primary School. This will take effect from 31st August 2021, with the displaced pupils admitted to other nearby schools, including a nearby Church of England Primary School.
2. To note the Equalities Assessment set out in Section 4 and attached as Appendix 2.

1 REASONS FOR THE DECISION

- 1.1 The recommendation is made in order to determine the Council's response to the proposal for the closure of St Matthias CofE Primary School.
- 1.2 The decision to propose the closure of St Matthias CofE Primary School has reluctantly been taken due to a significant decline in its pupil numbers. Pupil numbers in Tower Hamlets schools are currently falling, particularly in the West of the borough where St Matthias is situated. This means that St Matthias, along with other schools, has not had sufficient children to fill its classes. All year groups are now operating at classes well below their planned capacity of 30.
- 1.3 The fall in pupil numbers has adversely affected this small school's budget, which is now at significant risk. This has required St Matthias to take a number of measures to protect the quality of education, including considering whether it would be necessary to apply to the Local Authority for a licensed deficit. However, it is clear that should a licensed deficit be required, the School would not be able to repay this within the required three-year timeframe, in accordance with the school funding regulations. Where a deficit cannot be repaid it is therefore incumbent upon the School and the Local Authority to consider options for the School's future viability, including school closure.
- 1.4 Having considered the School's position and the limited options available it was necessary for the Governing Body to consult on a proposal for St Matthias to close, whilst ensuring that the displaced children can be accommodated in other nearby schools.
- 1.5 The proposal is for the closure to take effect from the 31st August 2021 and the process is therefore being undertaken in accordance with Department for Education (DfE) Guidance on 'Opening and Closing Maintained Schools'. So far, an initial public consultation has been undertaken, and a report on the outcome of the consultation has been published on the Council and School website.
- 1.6 This Consultation Report, at Appendix 1, includes feedback on the representations received following the first publication of the proposals on the 8th June 2020.

2 OPTIONS AVAILABLE

- 2.1 **Option 1:** to move to the publication of a statutory notice for 28 days, which is the next stage in the statutory consultation process. This will provide further opportunity for consultees to have their say and set legal objections against the proposal.
- 2.2 **Option 2:** not to move to the publication of a statutory notice, but to cease the proposal after stage one of the consultation period, this would mean not concluding the full statutory consultation process in order to take the decision to close the School.
- 2.3 Option 1 is preferred as it takes the proposal to the next stage of the statutory consultation process. It provides all consultees with further opportunity to fully consider the proposal for the School to close, during an additional 28 day period and before the Mayor/Cabinet is required to make a final determination in March of next year.

3 DETAILS OF THE REPORT

- 3.1 Following the stage one consultation period from the 8th June to the 30th September 2020, it was appropriate to publish a Consultation Report on the findings and after full consideration to take a decision whether to move to stage two of the school organisation process, which is to publish a statutory notice (Appendix 5). A copy of the Consultation Report is attached at Appendix 1.
- 3.2 Due to coronavirus it was not possible to hold the preferred method of public and parents' meetings regarding the consultation. However, several alternative methods were offered (in line with the Tower Hamlets consultation processes during coronavirus guidance for schools' consultations) and these methods along with the type of responses are explained in the Consultation Report.
- 3.3 The Consultation Report provides a detailed analysis of the responses and opinions expressed. It is evident that the respondents understood the proposal and its impact and the reason why the closure is being considered. Parents have been responsive and understand the position. They love St Matthias, but recognise that the pupil numbers are just not sufficient for the School's sustainability. The staff and governors at the School have taken on this difficult situation with a high level of professionalism. Whilst they are very sad at the School's possible closure they do understand that, were St Matthias to remain open, the financial challenges would adversely impact the quality of education going forward.
- 3.4 Based on the feedback and whilst acknowledging the reluctant views expressed during the stage one consultation, it is recommended for the Council to move to stage two of the process by issuing a statutory notice, with the support of the School's Governing Body. This will enable a further opportunity to obtain the views of the public and other interested parties before a decision can be reached.

4 EQUALITIES IMPLICATIONS

- 4.1 When making decisions the Council must act reasonably and rationally. It must consider only the relevant information and consult those affected, taking into account their views, before final decisions are made. It must also comply with its legal duties, including relating to equalities.
- 4.2 The Equality Act 2010 requires the LA, when exercising its functions, to have due regard to eliminate discrimination, harassment, victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not (“the Public Sector Equality Duty”).
- 4.3 An Equalities Assessment has been conducted by the LA and is attached at Appendix 2. It will continue to be updated in view of the responses to the statutory notice and its representations. This assessment must be considered in detail when the Cabinet considers the matters above, as part of its decision on whether St Matthias CofE Primary School should close.
- 4.4 Governors and LA officers have considered carefully whether changes may affect groups disproportionately. They will continue to work with Trade Unions to ensure that planning for any staff changes are fair and equitable and in line with agreed policies, including the Council’s School Organisational Change Procedure attached as Appendix 4.
- 4.5 Based on the findings of the Equalities Assessment there are no significant reasons to prevent moving to the stage two of the formal consultation, which is the issuing of the statutory notice. This will provide further opportunity for parents, pupils, staff and the wider community to give their views and raise any objections.
- 4.6 This proposal will require further analysis of the equalities data on staff who are at risk of redundancy, should the proposal to close the School move forward.

5 OTHER STATUTORY IMPLICATIONS

(i) Managing the Impact of Proposed Closure on School Staff

- 5.1 The LA, School Governing Body and London Diocesan Board are working together to support the School staff through this change. A formal staff consultation will only take place once the final decision has been made on the School’s closure. If the final decision is for the School to close staff will be supported through further training, coaching and workshops to find redeployment opportunities at other local schools.

(ii) Best Value Implications

- 5.2 The Local Authority has a duty to ensure that schools are fulfilling their duties and that value for public money is achieved, whilst standards are maintained. They must ensure that they do not fall into financial deficit so that they are unable to sustain an offer of quality education for children. This proposal is

being considered in view of concerns over the School's viability and therefore its ability to sustain high quality education for its children.

5.3 The proposal presents significant mainstream revenue and capital implications for the Council. When a school closes its finances (and any surplus or deficit) is returned to the LA. In the case of this proposal, the Statutory Notice will make clear that the deficit balance will transfer to the Council.

5.4 Closure of St Matthias CofE School will remove the requirement for additional funding from the Dedicated School's Grant, (DSG). This money reduces the pressure on the DSG that is caused by having a number of schools requiring licensed deficits and ensures a more efficient use of resources across the school estate.

(iii) Environmental (including air quality)

5.5 There are no environmental issues arising from this proposal.

(iv) Risk Management

5.6 School Closure Proposal

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to move to statutory notice	H (see revenue implications below)	L	This risk is low as it will be mitigated by ensuring that a full and public statutory consultation is being undertaken, including the earlier 14 week consultation before moving to publication of a statutory notice for 28 days	Director of Children and Culture (Service Head for Pupil Access and School Sufficiency)

5.7 If this recommendation is agreed, continuation of the statutory consultation process will be carefully managed and evaluated in line with statutory guidance, taking account of the further views of stakeholders and thoroughly addressing the findings from the Equalities Assessment.

5.8 It is proposed to close the School for September 2021. This timescale will allow further opportunity to ensure that children, parents and staff are aware of the proposal and its implications and are supported through the change process over the course of the remainder of the current school year.

(v) Safeguarding

- 5.9 The report deals with the Council's approach to managing the supply of school places for the local population. The efficient supply of school places contributes to the safeguarding of children by ensuring their early access to 'good quality' and sustainable education provision.

(vi) Data Protection / Privacy Impact Assessment

- 5.10 The proposals presented in this report have followed an initial and formal public consultation using a variety of mechanisms. All responses received through these mechanisms or made directly to Council officers or members have been included in the analysis of the feedback received. These responses have only been used to assess the community's view of the proposals and not for any other purpose.
- 5.11 The Council handles information in accordance with the Freedom of Information Act 2000 and the Data Protection Act 2018 and is the data controller for the purposes of the Data Protection Act 2018. For more information, the privacy notice for Pupil Services can be accessed [here](#).

6 COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 There would be no direct capital or revenue cost pressure to the council's general fund on the closing of the School. Schools are funded through a national funding formula paid to the Council for distribution to their Schools, much of which is based on individual school pupil numbers. As identified in the body of the report the current pupil numbers in the school mean a balanced budget is no longer viable. The schools receiving the transferred pupils will have an increased budget allocation to reflect their increased numbers and will in turn be better resourced.

7 COMMENTS OF LEGAL SERVICES

- 7.1 The process for closure (discontinuance) of a maintained school is set out in Part 4 of the statutory guidance 'Opening and Closing Maintained Schools' (November 2019), in sections 15 and 16 of the Education and Inspections Act 2006 and in the School Organisation (establishment and Discontinuance of Schools) Regulation 2013.
- 7.2 This report gives information on the outcome of the pre-publication consultation, which is the first stage of the statutory process for closure of a maintained school, and sets out its proposals for the next stage, which is the publication of a statutory proposal for the discontinuance of the school.
- 7.3 When carrying out its functions a local authority must have due regard to the need to eliminate discrimination, advance equality of opportunity between those who share a relevant protected characteristic and those who do not, and foster good relations between persons who share a relevant protected characteristic and persons who do not. This duty is set out in section 149 of the Equality Act 2010 (the 'public sector equality duty'). An Equality Impact Assessment has been carried out.
- 7.4 The local authority is required under the Local Government Act 1999 to secure continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

7.5 The matters set out in this report comply with the above legislation and guidance.

Linked Reports, Appendices and Background Documents

Linked Report

None

Appendices

- Appendix 1 Stage One Consultation Report on the Responses to the Proposal for the Closure of St Matthias CofE Primary School
- Appendix 2 Equalities Assessment
- Appendix 3 Consultation Document on the Proposal for the closure of St Matthias CofE Primary School
- Appendix 4 Council's HR Organisational Change Procedure
- Appendix 5 Draft Statutory Notice for the closure of St Matthias School

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

None

Officer contact details for documents:

N/A