

Cabinet 25 March 2020	 TOWER HAMLETS
Report of: Debbie Jones, Corporate Director, Children's Services	Classification: Unrestricted
Report on the outcome of public representations received in response to the statutory proposal to amalgamate Guardian Angels and St Anne's Catholic Primary Schools.	

Lead Member	Councillor Danny Hassell, Cabinet Member for Children, Schools and Young People
Originating Officer(s)	Terry Bryan, Service Head (Pupil Access and School Sufficiency)
Wards affected	All wards
Key Decision?	Yes
Forward Plan Notice Published	21 February 2020
Reason for Key Decision	To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
Strategic Plan Priority / Outcome	Children and young people are protected so they get the best start in life and can realise their potential

Executive Summary

This report informs the Council of the outcome of the four week period of public representation in response to the statutory notice on the proposal for the amalgamation (merger) of Guardian Angels and St Anne's Catholic Primary Schools. This would require the closure of Guardian Angels School and for a two form entry (2FE) primary school to continue on the site of St Anne's School.

It recommends for the Mayor in Cabinet to consider a decision on whether or not to formally proceed with plans for the schools amalgamation that would take effect from the 1st September 2020. Guardian Angels School would therefore officially close on 31st August 2020.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Consider the report and supporting documentation, particularly the statutory notice at Appendix 2; the comments and objections raised by the four respondents at Appendix 3 and the Equalities Assessment at Appendix 4.
2. Agree to proceed with plans for the amalgamation (merger) of Guardian Angels and St Anne's Catholic Primary Schools to take effect from the 1st September 2020 and meaning that Guardian Angels School would therefore officially close on 31st August 2020 and St Anne's would expand to accommodate the displaced pupils from 31st August 2020.

1 REASONS FOR THE DECISIONS

- 1.1 The recommendation is made in order to determine the Council's response to the statutory notice on the proposal for the amalgamation of Guardian Angels and St Anne's Catholic Primary Schools.
- 1.2 This would be achieved through the closure of Guardian Angels School (1FE – 30 children) with all children able to be accommodated at the St Anne's site, whose PAN would increase to 2FE(60 children, an increase from the current 50).
- 1.3 The proposal to merge the schools has been put forward after the Local Authority (LA) and RC Diocese considered possible alternatives through the recent review of its primary school organisation. Given the lack of pupils applying and the financial pressures facing both schools this proposal is the only option being presented to the Mayor in Cabinet
- 1.4 In line with the Department for Education guidance (November 2019) "Opening and Closing Maintained Schools" informal consultation has been undertaken, and statutory a notice inviting representation has been published.
- 1.5 This report provides feedback on the representations received following the publication of Statutory Notice on 6th February 2020.

2 ALTERNATIVE OPTIONS

- 2.1 The Mayor could decide not to agree to the recommendation for the schools amalgamation. In which case the LA would then have to decide on how the Guardian Angels School's budget deficit would be funded beyond the 2019/20 school year, given that it is no longer financially viable at its current pupil number and the next round of pupil admissions will not see a sufficient increase for the situation to improve.
- 2.2 The Mayor could decide to delay his decision on the schools amalgamation. However, this would mean the amalgamation taking place later than the proposed date of August 2020, by which time both schools financial position would have worsened. Officers are convinced that it would not be possible for Guardian Angels School to sustain a rounded education that meets its children's academic, social and emotional needs and, consequently, any

delay would not be in the best interests of quality educational provision.

3 DETAILS OF THE REPORT

- 3.1 The LA has a statutory duty to ensure that it provides sufficient school places. Decisions on how to achieve this are taken at local level, based on forecast pupil numbers across the planning areas (PAs) in a local authority. These PAs are groups of schools, often (but not exclusively) in a similar geographic area, reflecting patterns of provision. Department for Education 'School Place Planning Guidance (2018)':

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789602/School_Place_Planning_2018_Technical_Guidance.pdf

- 3.2 In Tower Hamlets the planning areas for primary schools are the same as the LA's primary school admission catchment areas. A summary of the pupil projections for the borough together with the PAs for Stepney (Guardian Angels) and Bethnal Green (St Anne's) are included as **Appendix 1**.
- 3.3 In order to fulfil its statutory responsibility the LA regularly reviews its provision, pupil forecast numbers, school applications and census data. This ensures that supply of school places remains appropriate to meet the level of demand and also that the LA is able to take steps to avoid too great a surplus in any particular area. Too many surplus places tie up scarce resources in under-utilised school premises or give rise to inefficient small classes or schools.
- 3.4 There has been significant and rapid demographic change in Tower Hamlets, which has led to a sudden fall in children applying for reception places in the West of the Borough, causing a high number of vacancies in some schools. The LA has taken a proactive approach to this developing trend, including conducting a Review of Primary School Places. Progress on the review has been regularly reported to Cabinet.
- 3.5 There has been a drop in applications across all schools, including Catholic Schools. Both Guardian Angels and St Anne's Schools have seen the number of reception applicant's fall. In reviewing Catholic provision the RC Diocese and LA consider, and governors agree, that Guardian Angels School is no longer sustainable and have therefore proposed an amalgamation of the two schools to minimise the disruption to staff and children that would be caused by a straightforward school closure. The amalgamation would draw on the strengths of both schools and enable those children who wish to transfer with their friends and known staff to the newly amalgamated school.
- 3.6 During the October and November 2019 an informal consultation was undertaken with the parents and staff at both schools, other local schools and key stakeholders. The consultation document and response analysis are available on the school websites.

3.7 The response to the informal consultation has been used to highlight and address issues that need mitigation to support the schools successful amalgamation, where possible these have been referred to in the statutory notice. Parents meetings and coffee mornings have been held in both schools, including at parents request, joint sessions. Staff, children and parents have been invited to visit each other's schools. A joint football match, won by Guardian Angels, was seen as a highlight by the children, but they have also enjoyed year group visits for Years 3, 4 and 5. Guardian Angels parents have appreciated the opportunity to visit St Anne's where they report being warmly received. The Guardian Angels school community would prefer not to see their school close, but in the circumstances, many of them have decided they would prefer to transfer their children to the amalgamated school at St Anne's. A number of parents have decided they would rather move their children to other schools more local to their homes, and 28 children have chosen to leave Guardian Angels since the consultation process began.

3.8 Publication of the Statutory Notice

A report on the outcome of the informal consultation was presented to the Mayor in Cabinet on the 29th January 2020. The Mayor agreed to proceed to the next stage of the consultation, which would begin the four week 'statutory representation period' and require the publication of a statutory notice.

The statutory notice (**Appendix 2**) was published on the 6th February 2020. It was completed using the applicable Department for Education (DfE) prescribed alterations template and guidance. The proposal was not related to any other proposal. All statutory requirements were carried out regarding the consultation.

Notification of the publication of the statutory notice was advertised widely, in line with DfE guidance. The permanent proposal for the amalgamation of Guardian Angels School and St Anne's School through the closure of Guardian Angels School and the expansion of St Anne's School was posted publically outside the schools, and on their websites on 5th February and published in East London Advertiser Newspaper on 20th February. All parents received a hard copy of the complete notice, and other stakeholders were signposted to the school and Council websites.

3.9 Responses to the Statutory Notice

By the formal close of the statutory notice period, four written responses were received from persons who identified themselves as:

- Parent and Guardian Angels parishioner
- Guardian Angels parishioner x 2
- Local headteacher

All four responses can be view here:

https://www.towerhamlets.gov.uk/lgnl/council_and_democracy/consultations/Pproposal-to-merge-GARCandStAnne.aspx

Three respondents were opposed to the schools amalgamation and one was in favour.

The responses to the proposal covered the following areas:

1. Guardian Angel School's financial mismanagement and the impact of its closure on parents and children of the catholic community
2. Delaying the closure of Guardian Angels to provide opportunity for the recruitment of a permanent full-time Headteacher, enabling the school to improve and reach a position of self-sustainability.
3. Impact on the community
4. Using the Guardian Angels School site to manage the oversubscription at Bishop Challoner RC School
5. Travel and Transport for Guardian Angels families
6. Consultation Process and Engagement with Community

A summary analysis of the representations, including feedback from Guardian Angels staff, together with the Council response is included at **Appendix 3**. The Council response is summarised here as follows:

LBTH Response to representations following the Statutory Notice

The Council recognises the impact of a school closure on its pupils, parents, staff and the wider community and, especially, when this is precipitated by the need to address the challenges of ensuring school sustainability. Efforts to address the earlier decline in standards at Guardian Angels School have not been helped by the fall in the pupil population in the local area. The anticipated pupil growth in future years is related to other areas east of the borough and this growth will not benefit schools in the west.

The current financial challenges at Guardian Angels mean that it would require significant and sustained investment over a number of years requiring it to run a budget deficit. Given the government changes, limiting the period for local authorities to fund schools with budget deficits, it would not be possible to delay its closure. The appointment of a permanent headteacher at Guardian Angels has not been possible, given its financial circumstances.

The Bishop Challoner RC Secondary Schools are popular schools in the borough, but they are not oversubscribed. There is therefore no need for these schools to require additional accommodation offsite.

The Council and the diocese will explore a range of options for ensuring that any decisions concerning the future of the Guardian Angels site will be of benefit to the catholic community.

The Council will provide travel support for existing Guardian Angel families to enable them to continue in catholic school provision at St Annes' RC. This would normally be in accordance with its travel policy [here](#). In support of the aim for the majority of Guardian Angels children to transfer to St Anne's RC

upon the schools amalgamation, the Council can consider providing the School with a subsidy to run its own school bus transport for these children.

In addition governors have researched whether they would be able to offer a hardship travel fund, for particular families who live more than a mile from the St Anne's site and are also considering whether extended day provision at the amalgamated school is sufficient to support parents with their journey to work.

The closure of Guardian Angels should not deprive future children in the area of a local catholic provision as there will still be the option for families to apply for nearby St Agnes RC School as well as St Annes RC.

Before moving to consultation the LA considered carefully with the RC Diocese the balance of denominational provision. This was addressed in the statutory notices, which were published with the support of the RC Diocese and both schools' governing bodies.

In the last 6 years the Catholic proportion of the school population has varied between 8% and 10 %. The proposed changes still provided for a 10% proportion of the population to access Catholic education. The proposal leads to a reduction of only 10 places across the Borough's Catholic Primary Schools. Current proposals to reduce pupil places in non-faith schools could reduce 165 places.

The admission criteria changes ensure children from the Guardian Angels Parish will continue to have priority access to a good Catholic education.

Guardian Angels Primary School does not offer nursery provision, but this will be available for parents in the amalgamated St Anne's Primary School.

Throughout the period of this proposal the schools governing bodies, RC Diocese and the LA have engaged in extensive consultation with parents and the local community. This has included:

- Letter to all parents from the Director of Education in July 2019;
- Letter from governors to parents following the schools decision to consult on amalgamation;
- Consultation documents published Monday, 4 November;
- Parents meetings for school based consultation 13/20 November 2019; Coffee mornings 27/11/19 at Guardian Angels and 28 November 2019 at St Anne's;
- Local Authority Open Information Sessions at the PDC on the Primary Review 11 December 2019, morning and evening sessions;
- Cabinet papers published 3 January 2020 on LA to decide whether to publish statutory notices;
- Statutory notices published 5 February 2020 in and around the school buildings; School letters to parents 6 February 2020 to invite feedback on the statutory notices

Having given due consideration to consultation responses, equalities issues, the financial stability of the schools and the quality of education, governors from both schools, the RC Diocese and Tower Hamlets Local Authority officers are in support of this proposal. They have considered issues raised by parents, other stakeholders, staff and children through all stages of consultation, including those received formally, raised in meetings and mentioned informally.

This proposal enhances the educational offer for the school community and secures long term financial stability and educational quality, matched to local Catholic demand, for our children.

There have been no representations made during this process that would change the proposal.

This is a strong proposal that is recommended to be agreed by the Mayor Cabinet.

4 EQUALITIES IMPLICATIONS

- 4.1 When making decisions the Council must act reasonably and rationally. It must take into account all relevant information and disregard all irrelevant 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 4**. It has been updated in view of the responses to the statutory notice and the representations. This must be considered in detail when the Cabinet considers the matters above, as part of its decision on whether the two schools should amalgamate.
- 4.4 Governors and the LA have considered carefully whether changes may affect particular groups disproportionately. They have recognised the potential financial impact of new school uniforms and changed travel arrangements for some families. They have sought to ensure that Catholic children in the Guardian Angels Parish are given priority for places at St Annes, protecting their right to access Catholic education. They have worked with Trade Unions to ensure planning for any staff changes is in line with agreed policies and therefore fair and equitable.
- 4.5 The assessment has found that there are no obvious equalities issues arising from this proposal, either for staff, parents or children.

5 OTHER STATUTORY IMPLICATIONS

(i) Managing the Impact of the Amalgamation on School Staff

The LA, the RC Diocese and the School Governing Bodies are working together to support the schools staff through this change. A report on the planned HR Organisational change process and meetings already held with the staff and their unions as well as the support being provided is attached as **Appendix 5**. A formal staff consultation will only take place once the final decision has been made on the schools amalgamation.

(ii) Best Value Implications

The LA has a duty to ensure that governors are fulfilling their duties and that value for public money is achieved, alongside maintaining and improving educational standards. They must ensure that admissions policies are equitable and fair, but also that schools do not fall into financial deficit so that they are unable to offer a quality education. With falling school rolls meaning that there are nearly 600 surplus reception places across the Borough it is inevitable that some very difficult decisions will have to be made. The proposal is an integral part of the Council's Primary School Review Strategy.

It will support the quality of educational opportunity for the children, providing access for Guardian Angels children to additional resources and space, in an accessible building. It will also allow parents in the Guardian Angels Parish to access Catholic Nursery provision, should they wish. In its October 2018 inspection OFSTED graded the provision at Guardian Angels as "satisfactory". St Anne's was inspected in January 2020 and was graded as a "good" school.

The proposal does not have any major mainstream revenue or capital implications for the Council, however building works at St Anne's will support the additional children and staff transitioning.

When a school closes its finances (and any surplus or deficit) is returned to the LA. The LA is no longer able to support schools with licensed deficits unless there is a clear plan that the deficit can be repaid within 3 years. The falling rolls at Guardian Angels make that impossible.

The closure of Guardian Angels School will release the annual lump sum element (currently £130,000) for the school from the Delegated School's Budget, (at a sliding rate over 2 or 3 years) so that over time the deficit accrued would be paid off. This money reduces the pressure on the Dedicated Schools Grant that is caused by having a large number of smaller schools, and several with deficit budgets, and also provides better value for money across the schools estate.

(iii) Environmental (including air quality)

Although Guardian Angels and St Anne's Schools are both in areas where the air quality is the same, the Guardian Angels site overlaps into areas where pollution is higher and the Mile End Road, particularly the crossroads area, is at more than the borough's highest levels of pollution.

St Anne's School site is not next to a major road, or crossroads, so does not border high pollution areas. St Anne's also benefits from improved air quality on its Northern side – from Spitalfields Farm and the neighbouring park area.

(iv) Risk Management

If these recommendations are agreed, continuation of the schools amalgamation process will be carefully managed and evaluated in line with statutory guidance and taking account the views of stakeholders in order to reduce and mitigate risks. It will be particularly important to ensure an effective transition of pupils to minimise any impact. The LA and the Diocese are working with Guardian Angels and St Anne's schools to support them in mitigating this risk.

Any delay to a decision on the amalgamation is likely to further exacerbate the impact on the schools, their pupils and staff. The continuing decline in pupil numbers leads to greater financial challenges adversely affecting a school's staffing and its ability to deliver a quality education.

The plans/options for both the St Anne's and Guardian Angels sites, following amalgamation is set out at **Appendix 6**.

(v) Safeguarding

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.

The proposals presented in this report have followed a full public consultation. 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.

The Council will handle 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 The changes, if agreed, will take place after April 2020 and therefore each school will receive its own budget share for 2020-21. If Guardian Angels close in August 2020 its governing body will receive 5/12th of the budget share. The remainder of its share will pass to St Anne's School.
- 6.2 The transferred share will include the pro-rata value of the full lump sum (£135,428). In 2021-22 transitional arrangements will apply that guarantee Guardian Angels school 85% of the former combined lump sums (lump sum plus £94,800). No automatic transitional arrangements apply to 2022-23 but

an application to extend arrangements for a further year can be made to the Secretary of State for Education.

- 6.3 Tower Hamlets' Scheme for Financing Schools sets out the arrangements for the balances of closing schools, in summary this states, in Section 4.8, that:

When a school closes any balance (whether surplus or deficit) shall revert to the LA; it cannot be transferred as a balance to any other school, even where the school is a successor to the closing school.

However, the formal consultation document relating to school re-organisation may set out any arrangements for allocations to schools that have the effect of giving them the benefit of additional sums that are less than or equal to but not more than the balances of the relevant closing schools.

Any extra payments to a new school that is the successor to one or more schools that are closing may be abated in full or in part to no more than the extent the predecessor school or schools closed with a deficit balance.

- 6.4 As the deficit for Guardian Angels will be a charge on the General Fund, the Governing Body will be required to request a Licensed Deficit Arrangement (LDA) with an accompanying action plan to ensure the deficit is minimised.

7 COMMENTS OF LEGAL SERVICES

- 7.1 Under section 15 of the Education and Inspections Act 2006 ("the 2006 Act"), a Local Authority can propose the closure of all categories of maintained school. The statutory process is set out in Part 4 of the 2006 Act. It is a detailed process that will require the publication of statutory proposals for the school's closure. As well as the provisions in the 2006 Act, the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the statutory guidance – Opening and closing maintained schools, have been followed to enable a decision to be taken in respect of whether Guardian Angels should close.
- 7.2 The reasons for closing a maintained school include, but are not limited to, where the school is no longer considered viable, or there is no predicted demand for the school in the medium or long term, or it is to be "amalgamated" with another school. The report sets out relevant reasons.
- 7.3 The LA can publish a proposal to close one school (Guardian Angels) and enlarge or transfer site (following the statutory process) of an existing school (St Anne's) to accommodate displaced pupils. The report includes consideration of proposals to expand St Anne's School to make available places for the pupils by the potential closure of Guardian Angels. The expansion is supported in principle by the Governing Body of both schools. The process detailed in the School Organisation (Prescribed Alteration Maintained Schools) Regulations 2013, together with the associated guidance, has been followed in respect of the proposal to expand St Anne's.
- 7.4 The report recommends that, having taken into consideration all of the responses received during the statutory representation period and the Equality Analysis, the Mayor in Cabinet approves the proposal to close

Guardian Angels School, and to expand St Anne's to accommodate the displaced pupils, with effect from the 31st August 2020. Cabinet must take the representations made conscientiously into account in taking a decision about whether to close the school.

- 7.5 Part 5 of the Guidance sets out the considerations that the Mayor in Cabinet must take into consideration when taking the decision as to whether Guardian Angels should close. This must be taken within 2 months from the date of the end of the representation period to take a decision as to whether a school should close, otherwise the Schools Adjudicator will take this decision.
- 7.6 The Guidance additionally sets out that where a school that has been designated with a religious character, decision-makers should consider the effect that any proposal for closure will have on the balance of denominational provision in the area, as well as the number of pupils currently on roll, the medium and long term need for places in the area, and whether standards at the school have been persistently low.
- 7.7 The Mayor in Cabinet must be satisfied that the statutory process has been properly followed. When issuing the decision, the Mayor can:
- reject the proposal;
 - approve the proposal without modification;
 - approve the proposal with such modifications as they think desirable, after consulting the LA and/or proposer (as appropriate); or
 - approve the proposal – with or without modification – subject to certain conditions (such as the granting of planning permission) being met.
- 7.8 Within one week of making a determination the Council must publish the decision in respect of the proposed closure and the reasons for that decision being made on the Council's website. The Council must arrange for notification of the decision and reasons to be sent to a number of named authorities and organisations.

Employment considerations

- 7.9 The proposal for closure of the school may lead to the staff being made redundant. A dismissal for redundancy purposes is defined in section 139 of the Employment Rights Act 1996 and includes circumstances where an employee is dismissed for reasons wholly or mainly attributable to the fact that the employer has ceased or intends to cease to carry out the business for the purposes of which the employee was employed. By section 135 of the Employment Rights Act 1996 an employee is entitled to a redundancy payment if the employer dismisses the employee by reason of redundancy. Separate consultation with staff regarding any school closure, redundancy situation or amalgamation will be required, if the proposals are taken forward. The school should follow its redundancy and redeployment process
- 7.10 The impact of TUPE provisions may need to be considered later depending upon the final proposals including decisions about amalgamation.

Equality considerations

- 7.11 When deciding whether or not to proceed with these decisions the Council must also have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristics and those who do not (the public sector equality duty). An Equality Analysis should be undertaken prior to a final decision being taken in respect of the proposals.
- 7.12 In light of both schools' designation as Catholic schools, the equality impact assessment has had particular regard to the impact on the religious needs of the affected children, parents and staff and balance of denominational provision in the area. It is essential that the Cabinet considers the appended Equalities Impact Analysis in detail before taking a decision in respect of closing the school.
- 7.13 In the event that the council uses S.106 money on the refurbishment of a building belonging to the Diocese the Council needs to enter into an agreement with the diocese in order to recoup the funds.
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Linked Reports, Appendices and Background Documents

Linked Report

- 30th October Cabinet Report on Planning for School Places 2019 /20 - Review and Recommendations

Appendices

- Appendix 1 LA Pupil Projections 2018-2028 (overall borough and Stepney catchment area)
- Appendix 2 Statutory Notice (issued on the 6th February 2020)
- Appendix 3 A summary analysis of the responses to the statutory notice
- Appendix 4 Equalities Assessment (updated following statutory notice responses)
- Appendix 5 Report on HR Organisational change process and support to be provided to school staff
- Appendix 6 Plans/Options for both the St Anne's and Guardian Angels sites, following amalgamation
- Appendix 7 Summary analysis on the current financial position of both schools

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

- NONE

Officer contact details for documents:

N/A