



Determination

Case reference:	STP645
Proposals:	To modify the implementation date for changing the age range and enlarging the premises of St Nicholas Church of England Infant School, Strood
Proposers:	The governing board of the school (change of age range) and Medway Council (enlargement of premises)
Date of decision:	29 July 2020

Determination

Under the powers conferred on me in section 21 of the Education and Inspections Act 2006 and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, I hereby agree to the requests made by the governing board of St Nicholas Church of England Infant School and Medway Council to modify the previously determined statutory proposals and determine that:

- the implementation date for changing the age range and enlarging the premises of the school shall be postponed until 1 September 2025; and**
- the date by which the local authority must obtain planning permission for the enlargement of the premises of the school shall be postponed until 1 September 2024.**

The referral

- On 18 May 2020 the Assistant Director of Education of Medway Council (the local authority) wrote to the Office of the Schools Adjudicator referring a request to modify the implementation date of the previously determined statutory proposals to change the age range of the St Nicholas Church of England Infant School (the school) from 4 to 7 to 4 to 11 and to enlarge the school by increasing its capacity from 120 pupils to 210 pupils.
- The original proposals were made by the governing board of the school (change of age range) and the local authority (enlargement of premises). I approved these proposals

on 30 March 2020, with two conditions, one of which related to the date by which the local authority must obtain planning permission, which the local authority also requests is modified, in this case to 1 September 2024. On 12 June 2020 the chair of governors of the school wrote to confirm that the governing board requests the modification of the implementation date for the change of age range, as it must do (rather than the local authority) as it made that part of the original proposal.

Jurisdiction

3. The request was referred in accordance with paragraph 21 of schedule 3 to The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 made under the Education and Inspections Act 2006.

4. I am satisfied that this request has been properly referred to me and that I have jurisdiction to determine this matter.

Procedure

5. In considering this matter I have had regard to all relevant legislation and the statutory guidance for proposers and decision-makers: "*Making significant changes ('prescribed alterations') to maintained schools*" (the statutory guidance) published in October 2018.

6. The documents I have considered in reaching my decision include:

- a) the requests for the modifications from the local authority and the school and subsequent correspondence;
- b) the response to the requests from the Rochester Diocese, which is the religious authority for the school;
- c) forecasted pupil numbers in the Strood area provided by the local authority;
- d) information about the anticipated revenue budget for the school; and
- e) the determination approving the original proposals (STP640), issued in March 2020.

Background

7. Details of the original proposals, their rationale and the statutory process that culminated in my approval of them can be found in the determination STP640. The implementation date for both the change of age range and the enlargement of the premises at the school was specified as 1 September 2023. The approval was granted on two conditions, namely:

- (a) that the local authority obtains planning permission for the enlargement of the premises of the school by 1 September 2022; and
- (b) that a variation to the admission arrangements of the school, reducing the PAN for admission in September 2020 from 40 to 30, is approved.

The second of these conditions was fulfilled on 3 April 2020, when I approved the required variation (determination VAR925).

8. In its letter requesting the modification of the implementation date for the proposals and a delay in the deadline for fulfilling the condition relating to the obtaining of planning permission, the local authority describes certain difficulties that have arisen since the proposals were approved. First, it says that the coronavirus pandemic *“has caused significant delays and uncertainty to plans to prepare the school for the implementation of the proposals.”* Second, there is now insufficient funding for the project due to increased costs and the need to provide additional *“bulge classes”* for year 7 pupils in secondary schools both in September 2020 and 2021. The bulge classes must take priority, the local authority says, *“or the council risks failing in its statutory duty”* to ensure sufficient school places are available.

9. The local authority explains that a delay of two years in implementing the proposals will give,

“appropriate time to prepare for the change to a primary school and ensure the best outcomes for current and future pupils. It will also allow time to put appropriate funding in place.”

A delay to the implementation of the proposals, the local authority says, necessitates a delay in the requirement to obtain planning permission by the same period of time.

10. In her letter, the chair of governors of the school says the governors were *“disappointed with the circumstances”* but *“recognised the reasons”* for the delay.

Consideration of factors

11. Summarising the relevant legislation, the statutory guidance states:

“Proposers can seek modifications from the decision-maker before the approved implementation date. However, proposals cannot be modified to the extent that new proposals are substituted for those that have been published.”

12. I am satisfied that the proposers are not seeking to substitute new proposals for those originally published. I also consider that the basis on which I approved those proposals in STP640, under the headings set out in the statutory guidance, still pertains to a very large degree. There were, however, several matters about which I needed clarification from the proposers. I address these in turn in the paragraphs that follow.

Demand for school places

13. A key reason given by the local authority for the proposals to extend the age range of the school and to enlarge its premises was the need to ensure that there will be sufficient school places in Strood. There are several ongoing and proposed housing developments in the area. I was concerned that a delay in the implementation of the proposals, meaning that the additional key stage 2 places to be provided at the school will not start to be available until 2025, would cause difficulty in this respect.

14. In response to my enquiring, the local authority provided the information in the table below, which shows the pupil numbers forecasted in each primary school age group in the Strood planning area until 2025.

Table 1 - Strood Forecast – PAN 540

	R	1	2	3	4	5	6
2020/21	508	475	519	524	531	515	513
2021/22	489	511	482	520	530	537	521
2022/23	474	492	519	484	526	536	543
2023/24	469	477	500	521	490	533	542
2024/25	467	471	483	500	525	495	537

The combined Published Admission Numbers (PANs) of all the schools in the planning area is 540. The table shows that pupil numbers are forecast to increase as year groups move through the primary schools, but the numbers enrolling in the reception year is set to decrease, presumably due to a falling birth rate. Overall, the figures indicate that it is only likely to be in the upper primary years that the numbers on roll will closely match the combined PANs. A delay to the implementation of the proposals will not have a direct effect in this respect as the school was scheduled to grow by one year group each year and would not accommodate the full primary age range until September 2026.

15. A delay in the implementation to the proposals will also mean that children admitted to the school in September 2020 and 2021 will need to transfer to a junior school at the end of year 2. The local authority has also provided figures showing that the school to which children from St Nicholas Infant normally transfer (Gordon Junior School) will have sufficient places for them if and when they are required.

16. I am satisfied that if the implementation of the proposals were to be delayed, there would not be a major problem for the local authority in ensuring that there are sufficient school places in the area.

The school's revenue funding

17. When I considered the original proposals, I was concerned about the financial implications of the number of pupils on roll at the school progressively decreasing from 2020 to 2022, as its PAN was reduced from 40 to 30 in preparation for its becoming “one-

form entry". Numbers would then increase as the additional year groups were established from September 2023. The decrease in roll would result in a reduction in the funding provided for the school during this period. The school explained to me satisfactorily how it intended to operate with the reduced revenue.

18. The requested delay in the implementation of the proposals would mean that the school's roll would remain at 90 until September 2025, operating with a smaller budget for a longer period of time. The local authority mentioned to me two measures that might help in this respect. First, it has discussed with the school the possibility of temporarily increasing its PAN back to 40. Second, it is in the process of seeking approval from the Schools Forum for a "falling rolls fund." It says,

"a situation such as this would qualify to assist with budget management in the short term."

19. There are, of course, many schools across the country that perform very well with rolls of 90 and considerably fewer. It is the transitional periods as pupil numbers change that are often the most challenging for schools' financial management. I have a sufficient degree of confidence that the local authority is aware of the challenges the school will face, both from the proposals themselves and a delay to their implementation, and will be able to support the school appropriately during this period.

Parental expectation

20. The proposals, as originally determined, provide for the school to complete the process of extending its age range in September 2026. Parents enrolling their children at the school in September 2020 could expect that they would be able to complete their primary education, through to the end of year 6, at St Nicholas. The proposed modifications mean that these children would need to change schools at the end of year 2. I was concerned that, for admission in September 2020, parents may have made decisions about the school they wished their child to attend on the basis of an expectation that will not now prove to be accurate and may prefer their child to be admitted to a school that will provide for the full primary age range.

21. The local authority's 'programme lead' responded by saying that at the closing date for applications, in January 2020, the original proposals had not been approved and parents were made aware that there remained a possibility that they might not be. The officer continued,

"The school has recently advised parents of incoming reception children that there is no guarantee of a year 3 place at the school and to date I have received no notification of complaint."

However, the local authority will support any parent of an incoming reception child if they wished to apply for a place at an alternative primary school in the area in the meantime."

I consider this to be an appropriate course of action.

Summary of decision

22. I recognise that unexpected events can affect the schedule for capital projects. The coronavirus pandemic, in particular, could not, of course, have been foreseen. The local authority has addressed my concerns about the proposed delay in the implementation of the proposals. Neither the school nor the diocese has expressed opposition to the proposed modifications. Although such an outcome is not ideal, I consider it represents an appropriate pragmatic response to the position in which the local authority finds itself. I approve the requested modifications.

23. The local authority has asked whether, if funding were to become available sooner than expected, the originally determined date for implementation could be reinstated. This would require further reference to the Office of the Schools Adjudicator.

Determination

24. Under the powers conferred on me in section 21 of the Education and Inspections Act 2006 and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013, I hereby agree to the requests made by the governing board of St Nicholas Church of England Infant School and Medway Council to modify the previously determined statutory proposals and determine that:

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Dated: 29 July 2020

Signed:

Schools Adjudicator: Peter Goringe