



Office of  
the Schools  
Adjudicator

## Determination

<b>Case reference:</b>	<b>STP650</b>
<b>Proposals:</b>	<b>To modify the implementation date for changing the age range and enlarging the premises of St Nicholas Church of England Infant School, Strood</b>
<b>Proposers:</b>	<b>The governing board of the school (change of age range) and Medway Council (enlargement of premises)</b>
<b>Date of decision:</b>	<b>29 September 2021</b>

## 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 of the school shall be 1 September 2023; and
- the date by which the local authority must obtain planning permission for the enlargement of the premises of the school shall be 1 September 2022.

I also agree to modify the implementation date for the enlargement of the premises and determine that it shall be 1 September 2024.

## The referral

1. On 28 July 2021 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.

2. 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. Following a request from the local authority, I approved, on 29 July 2020, the following modifications to the proposals:

- to delay the implementation date for the proposals by two years, to 1 September 2025; and
- to delay the date to obtain planning permission, also by two years, to 1 September 2024.

The local authority now requests that the proposals are modified again, with the effect of reinstating those originally approved, so that:

- the implementation date for the proposals shall be 1 September 2023; and
- the date by which the local authority must obtain planning permission shall be 1 September 2022.

On 13 September 2021 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 (the regulations) 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) information provided by the local authority relating to the effect of the requests for modifications on other schools; and
- c) the determinations approving the original proposals (STP640) and modifying the implementation dates (STP645), issued in March 2020 and July 2020, respectively.

## 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 local authority's reasons for seeking a delay to the implementation date are set out in STP645. The local authority now wishes to revert to the original timescale for the proposals. In its letter requesting this further modification of the implementation date and the deadline for fulfilling the condition relating to the obtaining of planning permission, the local authority explains that the shortfall of capital funding, which was a key reason for seeking a delay to the original proposals, has now been resolved. It says,

“Funding has now been secured via a commitment from the council’s Cabinet and Full Council using section 106 contributions from local developments, and the uncertainty around the pandemic has eased, with the situation now clearer.”

8. In her letter, the chair of governors of the school says that the governing board are “delighted that the plans could be reverted to the original timeline.”

## Consideration of factors

9. 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.”*

10. 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. There are, however, two matters of clarification that I address below.

### *The implementation date for the change of age range*

11. An effect of the modification approved in STP645, which delayed the implementation date of the original proposal, was that children completing year 2 in 2023 and 2024 would not be able to stay at the school (as it would remain an infant school) and would have to transfer to a junior school. Children from St Nicholas Infant School normally transfer to Gordon’s Primary Academy, Junior (Gordon Junior School). As the plan provided by the local authority (Table One) shows, if I approve the modification to the implementation date

for the change of the school's age range that has been requested, it will not be necessary for children attending St Nicholas to transfer to Gordon Junior School or any other school in September 2023 or 2024.

**Table One: Proposed implementation plan for the extension of the age range at St Nicholas Infant School**

	R	1	2	3	4	5	6	Total
2019	40	40	40					120
2020	30	40	40					110
2021	30	30	40					100
2022	30	30	30					90
2023	30	30	30	30				120
2024	30	30	30	30	30			150
2025	30	30	30	30	30	30		180
2026	30	30	30	30	30	30	30	210

12. A key reason originally given by the local authority for the proposals was the need to ensure that there will be sufficient school places in Strood. In its request for a modification to the implementation date for the change of age range, it explains,

“Associated to the changes at St Nicholas, Gordon Infants and Juniors were planning to alter their PANs from 60 and 100 respectively, to 90 at both. Following discussions with the Thinking Schools Academy Trust (TSAT), under whom the Gordon schools sit, and with falling birth rates, they now plan to have a PAN [Published Admission Number] of 60 at both schools until needed to expand. This need is not expected until later in the decade. This would still complement the change at St Nicholas, and the change would not affect the viability of any of the three schools.”

The local authority also indicates that TSAT supports the modification request.

13. In the light of the local authority's explanation, I am satisfied that the proposed modification to the implementation date for the change of age range is appropriate. The local authority has taken into account both the need to provide sufficient school places in the Strood area and the effect of the change on other schools. I approve the governing board's request to modify the implementation date for the change of age range at the school, to 1 September 2023. For the avoidance of doubt, I do not specify that a change in the PAN at Gordon Junior School is a condition of my approval.

*The implementation date for the enlargement of the premises*

14. The local authority has requested a modification to the implementation date for the enlargement of the school's premises, from 1 September 2025 to the original date of 1 September 2023. However, in his letter requesting the modification, the Assistant Director states,

“The physical expansion project is expected to be completed in the 2023/24 financial year and the additional classrooms will be available for pupils from September 2024, when they will be required. Sufficient classroom space is in place until then.”

15. Table One confirms that the present capacity of the school of 120 pupils will be sufficient to accommodate the four classes of up to 30 pupils, from the reception year to year 3, that will be educated at the school in the academic year 2023/24, as the first stage of the implementation plan to extend the age range comes into effect. Additional accommodation will need to be available from 1 September 2024, when the school's roll will increase to up to 150 pupils. Therefore, I consider that an appropriate implementation date for the enlargement of the school's premises is 1 September 2024, rather than 1 September 2023. Indeed, the local authority does not guarantee that the physical expansion of the school will be complete by 1 September 2023. I have made the local authority aware of my thinking in this respect.

16. I approve the local authority's request to modify the implementation date for the enlargement of the school's premises, but specify that implementation date shall be 1 September 2024.

17. I also amend the condition relating to the obtaining of planning permission by the local authority to the effect that it should be secured by 1 September 2022.

## Summary of decision

18. The local authority has resolved the capital funding issue that resulted in the modification of the implementation dates of the original proposals. The governing board of the school and the local authority wish to reinstate the original implementation dates for the change of age range and enlargement of the premises of the school, respectively. I approve the modification date for the change of age range to 1 September 2023. I am assured by the local authority that there will be sufficient school places in the area and that the proposed implementation date has the support of the academy trust for the local junior school.

19. I also approve the modification of the implementation date for the enlargement of the school's premises, but to 1 September 2024, rather than to 1 September 2023 as requested by the local authority, as this is the date by which additional accommodation will be required and when the physical expansion of the premises will be complete.

## Determination

20. 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 of the school shall be 1 September 2023; and
- the date by which the local authority must obtain planning permission for the enlargement of the premises of the school shall be 1 September 2022.

I also agree to modify the implementation date for the enlargement of the premises and determine that it shall be 1 September 2024.

Dated: 29 September 2021

Signed:

Schools Adjudicator: Peter Goringe