

Title of meeting:	Cabinet Member for Education
Date of meeting:	16 th January 2019
Subject:	Proposal to close Willows Centre for Children - outcome of pre-statutory consultation
Report from:	Alison Jeffery, Director of Children, Families and Education
Report by:	Caroline Corcoran, Head of Sufficiency, Participation and Resources - Education Service
Wards affected:	All
Key decision:	No
Full Council decision:	No

1. Purpose of report

- 1.1 This report set out the findings from the pre-statutory consultation in relation to a proposal to close Willows Centre for Children but to continue to deliver the specialist provision provided by Willows as part of an expanded Cliffdale Primary Academy. The consultation was undertaken between 15th October 2018 and 10th December 2018.
- 1.2 This report carefully considers the responses, and determines whether the proposal should be amended.
- 1.3 In conclusion, the proposal remains unchanged. Approval is sought to proceed to the publication and representation stages of the statutory process.

2. Recommendations

2.1 It is recommended that the Cabinet Member:

- **considers the responses to the pre-statutory consultation carried out on the proposal to close Willows Centre for Children but to continue to deliver the specialist provision provided by Willows as part of an expanded Cliffdale Primary Academy.**
- **authorises the Director for Children, Families and Education to proceed to the publication and representation stages of the statutory process to close Willows Centre for Children.**

3. Background

- 3.1 Willows Centre for Children is a maintained special school offering specialist early years and primary phase education to children aged 3 to 7 with Special Educational Needs (SEN) from a site on Battenburg Road next to Cliffdale Primary Academy (a special academy school (for pupils aged 5 to 11). Willows has 42 full time equivalent specialist places for nursery, reception and year 1 pupils. Pupils are placed at the Willows by the Local Authority.
- 3.2 The Council and the Governors of Willows Centre for Children consulted on a proposal to close Willows Centre for Children and to continue to deliver the specialist provision provided by Willows as part of an expanded Cliffdale Primary Academy which is operated by Solent Academies Trust. This proposal requires the Council to formally propose the closure of Willows Centre for Children and for Solent Academies Trust to propose (the linked) expansion and age range changes to Cliffdale Primary Academy.
- 3.3 As Willows Centre for Children is a community maintained special school, closure of the school is governed by The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013. The Local Authority would be the decision maker for a school closure. The prescribed alteration is required to follow the five stage statutory process set out in Table 1 below.

Table 1. Statutory process for the closure of a maintained school

Stage	Description	Timescale	Comments
Stage 1	Pre-statutory consultation	No required timescale but at least 6 weeks recommended	
Stage 2	Publication (statutory proposal / notice)		
Stage 3	Representation (formal consultation)	Must be at least 4 weeks	As prescribed in the 'Prescribed Alteration' regulations.
Stage 4	Decision	LA should decide a proposal within 2 months otherwise it will fall to the Schools Adjudicator.	Any appeal to the adjudicator must be made within 4 weeks of the decision.
Stage 5	Implementation	No prescribed timescale	However it must be as specified in the published statutory notice, subject to any modifications agreed by the decision-maker.

- 3.4 Solent Academies Trust is required to obtain Secretary of State approval for the organisational changes to Cliffdale Primary Academy. The process for this requires the academy trust to submit a business case to the Regional School Commissioner who can approve the change on behalf of the Secretary of State.
- 3.5 The proposal to close Willows Centre for Children can only be implemented if the changes to Cliffdale Primary Academy are approved.
- 3.6 On 15th October 2018, the Council commenced a pre-statutory consultation on the (linked) proposal to close Willows Centre for Children. The consultation document was sent to the parents and carers of all children attending the Willows (attached as Appendix 1). The consultation document was also circulated widely to Ward Councillors, Portsmouth MPs, colleagues in neighbouring Local Authorities, the Portsmouth Anglican and Roman Catholic dioceses, Portsmouth Parent Voice, all Portsmouth Headteachers and Senior Council Officers in Children's Social Care and Health services.
- 3.7 The consultation was open for 8 weeks and closed on 10th December 2018. Two public drop-in consultation sessions were arranged for 9.30am on Thursday 22nd November and 3pm on Friday 23rd November to allow any interested party the opportunity to ask questions or comment on the proposal. To maximise stakeholder engagement these sessions were timed to coincide with the start and end of the school day when parents and carers would be dropping off or collecting their children.

4. Outcome of consultation

- 4.1 Details of the responses received by 10th December 2018 are set out in Appendix 2. A total of 21 responses were received.
- 4.2 Three of these respondents commented on the unrelated closure of the day care childcare facility at the Willows. These comments specifically related to this have been passed to the appropriate party for consideration and are not included in Appendix 2.
- 4.3 In response to the question "Do you support the proposal?"
- 10 respondents supported the proposal
 - 10 respondents did not support the proposal.
 - One respondent commented by email without answering this question
- 4.4 The comments from respondents have been carefully considered.
- 4.5 Some respondents felt that the Willows Centre for Children should continue as it is now, as a separate provision. However, the Council and the Governing Board do not view this as a financially viable option, and want to secure the high quality local provision through an alternative approach.
- 4.6 Some respondents commented on the Willows identity, and felt that the Willows name should be retained. Other comments focussed on the security net offered

by the smaller, more user friendly school which may be lost when the provision is incorporated into the Cliffdale offer. Retaining the distinctiveness of early year's principles within the new Cliffdale provision was seen as very important, as was ensuring that there were staff with early year's expertise in the future arrangements.

- 4.7 A further concern was that provision for the youngest children with high levels of additional needs would be further reduced and it was asked that the individual needs of the most vulnerable young children would stay at the heart of decisions about the future.
- 4.8 It is clear that there are reservations about the proposed changes, despite the excellent quality of provision at Cliffdale and the outstanding reputation and standards across the Solent Academies Trust.
- 4.9 Formal advice from the government has confirmed that the Willows Centre for Children cannot become a stand-alone academy, or an academy within a Multi-Academy Trust as it does not meet the required criteria. Therefore, retaining the Willows as a separate entity is not possible, due to the academy regulations and the financial viability explained in paragraph 4.5.
- 4.10 Therefore, it is concluded that the proposal should move to the next stage in the process, at which time the concerns outlined in the pre-consultation phase can be addressed in more detail.

5. Reasons for recommendations

- 5.1 Willows Centre for Children is a good school providing good quality education, but as a very small school Willows Centre for Children faces increasing financial uncertainty. Ensuring sustainability and financial viability is increasingly challenging for small schools.
- 5.2 There is a continuing need for specialist nursery places in Portsmouth and the proposal would safeguard the future of the provision which would be provided going forward by Solent Academies Trust. Staff from Willows Centre for Children would transfer to Solent Academies Trust under TUPE legislation and pupils would continue to attend the provision.

6 Equality impact assessment

- 6.1 An equality impact assessment is not required as the recommendation does not have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

7. Legal implications

- 7.1 The statutory process for the closing of a maintained special school and nursery is set out in the Education and Inspections Act 2006 ("EIA 2006") and the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013. Under s.15 of the Education and Inspections Act 2006, an LA can propose the closure of all categories of maintained schools including a

community, community special or maintained nursery school. The LA will be the decision-maker of the proposal and must follow the statutory process.

- 7.2 The statutory process for closing a community special school requires consultation to be carried out prior to publishing the statutory notice and proposal with a number of bodies, as set out under section 16(1) of the EIA 2006. The statutory guidance for proposers and decision-makers "Opening and Closing Maintained Schools" November 2018 states that it is for the proposer to determine the nature and length of the pre-publication consultation. The purpose of this report is to provide the outcome of this consultation to the Cabinet Member.
- 7.3 If the recommendations of this report are approved, the statutory process requires the publication of the statutory proposal and a representation period of 4 weeks from the date of publication of the proposal. The proposal must include the information contained in Schedule 2 to the Establishment and Discontinuance Regulations 2013.
- 7.3 Following the end of the representation period, the LA must make a decision within a period of two months, otherwise the proposal must be referred to the Schools Adjudicator
- 7.4 It is within the Cabinet Member's powers to approve these recommendations, as set out in the City Council's constitution.

8. Director of Finance's comments

- 8.1 The School and Early Years Finance (England) regulations set out the Dedicated Schools Grant (DSG) framework for the provision of funding for 2,3 and 4 year olds in nursery settings, as well as the framework for pupils in special schools.
- 8.2 The local funding formula for 2,3 and 4 year olds in nursery settings and for element 3 top-up rates for special schools were agreed by the Cabinet Member and endorsed by Schools Forum in January 2018.
- 8.3 Willows Centre for Children is a small provision and as such, faces challenges in maintaining financial viability. The proposed expansion of Cliffdale Primary Academy will ensure the continuation of this important provision, whilst benefiting from the economies of scale enjoyed by the larger organisation.
- 8.3 For the avoidance of doubt, no provision has been made in the authority's capital programme for any capital works that may be associated with the closure of Willows Centre for Children or for the subsequent expansion of Cliffdale Primary Academy.

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Signed by:

Appendices:

APPENDIX 1: Consultation Document
APPENDIX 2: Consultation Responses

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Statutory Guidance - "Making 'prescribed alterations' to maintained schools"	https://www.gov.uk/government/publications/school-organisation-maintained-schools

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: