

North Somerset Council Decision

Decision Of: Executive Member for Children's Services and Lifelong Learning
With Advice From: Director of Children's Services
Directorate: Children's Services



Decision No: CS30

Subject: Extension to the Phase 1 consultation process to seek approval to expand Baytree School from a 72 to a 120-place special school across two sites formally from 1 September 2023 onwards

Key Decision: Yes

Reason: Whilst decisions about the funding of the school expansion have been made by Council and through other Decision Sheet determinations, the expansion of Baytree School will affect communities comprising of two or more wards in the area of the Local Authority as pupils attend the school from across the whole of the North Somerset area.

Background:

In September and October 2019, the Council asked for views on its proposal to expand Baytree School onto a second site. The expansion will take the school from operating as a single site school at The Campus in Weston-super-Mare, that currently caters for around 72 children, to a two-site school with a new provision for between 65 and 85 pupils at a new location, off Brookfield Walk in Clevedon.

Whilst the capacity of the two sites could allow for c140 places, it is currently proposed that 120 school places across both locations are needed at this time. Subject to all approvals, the second site is scheduled to be available to pupils in the 2022/23 school year and officially open to new pupil intakes from September 2023.

Baytree School is the only school in North Somerset designated to provide education to children with severe and profound learning difficulties. The school needs the capacity to offer more places to meet increasing demand. Statistics outlining the reasoning behind the proposed Baytree School expansion can be found in the following document: [Baytree consultation key facts and figures.pdf \[228.08 KB\]](#)

The consultation responses, in 2019, showed that, whilst there was overwhelming support for the need for a new school, there was considerable opposition from some to its proposed location in Clevedon. Working through the necessary steps to secure a site with planning approval has delayed the progress of the school expansion process. This is because, before a decision is taken that will result in the allocation of places to named individuals, the Children's Services Directorate needs to be certain that it can deliver the

new site (if approved) and that the school will be ready to receive pupils. Only when there is a reasonable expectation of delivery can a decision to deliver the expansion be made.

Work to get to this point has included:

- Determining an application made to the Commons Registration Authority (North Somerset Council) in October 2019 for the land at Brookfield Walk to be designated as a **town and village green**. The application was rejected at a meeting of our Planning and Regulatory Committee in August 2020.
- Undertaking a **wider review of sites** (528 in all) across North Somerset to be able to satisfy the Local Planning Authority that 'special circumstances' exist that could enable the use of green belt land to be considered in a planning submission. The review determined that the Brookfield Walk site was the only location that could reasonably deliver a new building to best match the requirements for the school and the pupils it serves.
- Developing a robust **planning application** that could meet the statutory tests to enable planning consent to be considered. A planning application was registered in April 2020.
- Overcoming designated green belt land concerns and **objections to the scheme from a statutory consultee** such as the Environment Agency, in line with regulations. These considerations meant that in both cases the application had to be referred to the Secretary of State (SoS) for Housing, Communities and Local Government. The SoS determined in January 2021 that he would not conduct a public inquiry to inform his decision and he has allowed the local planning authority to make their own determination.
- Undertaking **further, local noise and air quality assessments** to meet the conditions of the planning consent provided by the Planning and Regulatory Committee on Thursday 16 September 2020. These included 6 months of data and were submitted to the Planning Authority in August 2021. It is hoped a planning permission determination and hopefully an approval notice is to be issued imminently.
- Securing a positive outcome when **appropriating the site**. This is the process that allows the Council to change the purpose for which it holds a piece of land. A decision was made by the Executive Member for Asset Management in July 2021 to allow this change to proceed.

It has been almost two years since the original consultation was undertaken. As a result, the opening of the new site for new intakes has moved from September 2021 to September 2023, although it is hoped that some transition between the two sites and from other schools for some pupils could start as early as spring 2023.

Approval is sought to undertake a further short review, to check that the initial views of respondents have not significantly changed. The need for the school places is urgent, so this review is likely to overlap with building work to create the new building in Clevedon starting on site. Without planning approval to build or expand a school site, the process to enable extra school places and the publication of a notice confirming all approvals are in place cannot be easily progressed.

We expect many earlier responses will still stand, but we want to hear from those who may have changed their opinions since 2019. These may or may not influence the formal publishing of the public notice that will set out our firm proposals. This publication is expected later this in the autumn/early winter of 2021.

Any final school organisation determination will be submitted to the Council's Executive Committee in the spring or summer of 2022 for a decision. Only the Church of England Diocese or the Roman Catholic Diocese have the right of appeal.

Decision:

To approve a further 3-week review of stakeholder's views about the expansion of Baytree School from 72 to 120 places across two sites, the current site being at The Campus Weston super Mare and a new site off Brookfield Walk in Clevedon. The intention of this review is to check that the initial views of respondents have not significantly changed since the initial consultation that took place in September/October 2019 and to notify consultees of the change in opening from September 2021 to September 2023, with some pupil transitions to the new site from the spring 2023 onwards.

Reasons:

Whilst there is no legal requirement to carry out consultations before publicising an intention to make changes to a school through a statutory process, it is right that the Council seeks the views of stakeholders to these changes before a public notice is published.

Options Considered:

To not progress with an update to this consultation process and rely of the views and comments made in the autumn 2019. Although there is no longer a statutory 'pre-publication' consultation period for prescribed alteration changes, there is a strong expectation that schools and LAs will consult interested parties in developing their proposal prior to publication, to consider all relevant considerations. It seems right that, due to the time between the first conversations with stakeholders and the imminent need to undertake the required 4-week formal representation, updated views are known.

Financial Implications:

This paper is concerned with the costs of this further 3-week informal consultation process.

Costs:

The financial implications of this pre-representation process are minimal, relating to the costs of officer time and some printing costs. These costs have been absorbed within existing budgets.

The potential financial implications of the school proposal are subject to separate reporting in relation to the funding of the capital delivery project.

Funding:

Funding for this 3-week process and review period have been absorbed within existing budgets.

Legal Powers and Implications:

The School Standards and Framework Act 1998 sets out how Local Authorities should exercise their statutory duties to secure primary and secondary education to meet the needs of the population in their area. The Education and Inspection Act 2006 enhanced the role of Local Authorities, making them strategic commissioners of services with a mandate to promote high standards for all and greater choice and diversity.

The Education Act (EA) 1996 Section 14A, aided by Section 3 of Education and Inspections Act (EIA) 2006 requires Local authorities to consider and respond appropriately to parental representations about school provision in relation to local authorities' functions under Section 14 of the Education Act 1996. Local Authorities must reasonably consider parental representations regarding the provision of schools and respond accordingly, including outlining any proposed action or, where it is considered action is not needed, to explain the reasons for this.

The Education Act 2011 maintains the role of Local Authorities as the strategic commissioner of services but provides greater autonomy of education provision by the encouragement of the establishment of academies, free schools, studio schools and Enterprise Colleges that are independent of the Local Authority. The Act gives Local Authorities 'a critical new role as strengthened champions of choice, securing a wide range of education options for parents and families, ensuring there are sufficient high-quality school places, co-ordinating fair admissions, promoting social justice by supporting vulnerable children, and challenging schools which fail to improve.'

Climate Change and Environmental Implications:

The administrative process of this 3-week consultation has minimal climate change or environmental implications in itself. The Council is committed to becoming carbon neutral by 2030. Reducing the journey lengths for some pupils attending special schools and offering local provision will assist with this commitment

The use of the new site off Brookfield Walk in Clevedon from open space for use for a school will have climate change and environmental implications, if the proposal is delivered, including a potential overall increase in carbon emissions compared to current use.

An energy efficient approach has been carried throughout all aspects of the design of the proposed 2nd site for Baytree School. The new build's passive design has been utilised to minimise both energy usage and running costs. A three-tier approach has been adopted. Firstly, building loads have been reduced through effective fabric design that go above and beyond the U-values and air tightness values stated within 2013 Part L2A 2 of the Building Regulations and those recommended within the National Calculation Methodology Non-Domestic Modelling Guide. Secondly, installed building services systems have been designed to maximise their efficiencies so that resources are not wasted. Finally, 15% regulated energy via renewable technologies has been incorporated.

Consultation:

The first stage of a public consultation ran from Thursday 19 September 2019 to Friday 25 October 2019. A consultation document and response form, seeking the expansion from September 2021, was also available on the Council's website at: http://consult.n-somerset.gov.uk/consult.ti/Expansion_of_Baytree_School/consultationHome

In addition to on-line paperwork and a questionnaire, statutory consultees were personally invited to respond. Officers were available at nine different meeting and consultation events to explain the reasons for the consultations and to answer questions.

Overall there were 428 responses to the e.consult consultation by the closing date.

- 96% of those responding agreed there is a need to create more places for pupils with Severe and Profound Learning Difficulties by September 2021. Slightly less than 2% opposed the recommendation and just over 2% had no view
- 93% of consultees agreed that to take more pupils, Baytree Special School needs to expand onto a second site. 4% of consultees disagreed with this proposal whilst 3% had no view
- When asked if the second site should be located within easy reach of most homes and within easy reach of the current Baytree Special School, 87% agreed with this proposal. Just under 5% disagreed and 8% had no view.
- Overall 90% supported the suggested proposals, 8% opposed the recommendations and just over 2% had no view.
- 13% of consultees indicated they had concerns about equality impacts, although when assessed against the legislative criteria for such an impact, this number was reduced to 2 responses from people with protected characteristics – 0.5%. An additional 1 person who, by the nature of the response would have a protected characteristic, did not have any concerns about equality impacts that they wanted to raise. There were an additional 53 responses that referenced equality issues for others, ranging from the need for pupils with SEND to have equality in the provision and location of their places when compared with mainstream pupils, to the need for local neighbours to be able to use the Brookfield site field with their needs and concerns being considered as equally important as the needs of the pupils that the school will be designed to serve.
- Of those responding to the consultation overall, 49 had direct connections with the school, 67 were members of the community with a connection to the school, 39 were residents of Clevedon but not direct neighbours to the new site, 54 were members of the wider community, 36 were neighbours of the proposed new site, 19 were neighbours of the current site and 164 were classified as other stakeholders. In the category of other stakeholders, of those who provided a category, 17 identified as parents of children at Baytree Special School, 21 were parents of children with SEND and 5 were parents of children that had recently left Baytree Special School.

At the two public consultation events, of the 31 who attended the event on 7 October 2019, those who were not direct neighbours of the site supported the changes and c80% of the direct neighbours disagreed with the proposals. Of the 10 consultees who attended the 10 October 2019 event, most supported the change. A district and town councillor were opposed to the recommendation and two local residents gave no firm view.

At the events specifically for school stakeholders, of the 18 parents/grandparent, 9 staff and 1 local stakeholder, there was overall support for the changes. Parents understandably had concerns about the placing of pupils over more than one site, about travel to and between sites, and about parity of provision.

There were two events with direct neighbours on 4 and 30 September 2019. Those present were supportive of the need for new places but steadfastly opposed to any building on the fields adjacent to their homes.

The school representatives who met with officers were fully supportive of the expansion proposals and potential location for the new places.

In addition to the above, one parish Council wrote in support of the proposals. The Town Council where the new site is proposed did not respond. Neither did the local MPs.

The Diocese of Bath & Wells responded to e.Consult in support of the proposals. The Education Excellence Partnership Board, the group that represents schools and Multi-Academy Trusts, the SEND Board that consists of all statutory and stakeholder partners working with children with SEND and the Strategic Schools Forum who oversee the funding allocations to schools, also fully supported the consultation proposals.

Subject to receiving planning approval, this extra consultation will take place in September/October 2021.

Risk Management:

The consultation process itself is an administrative process and carries minimal other risks. The key risk to the council is the risk of legal challenge as we have failed to take account of the views of stakeholders, noting that this consultation process is not a referendum. The purpose of the 3-week review period is to ensure that views have not materially changed from those previously made.

Equality Implications:

Have you undertaken an Equality Impact Assessment? Yes

This is a North Somerset Council project and part of our commitment to make North Somerset a fairer place to live.

An Equality Impact Assessment was undertaken using views from the first consultation in the autumn 2019 and these will be updated following this 3-week review. The post-consultation EIA confirmed that generally children with Severe and Profound Learning Difficulties and their families are likely to be positively affected by the creation of a second site for the school. A school designed to meet their requirements and provide greater numbers of places will enable their needs to be better met and potentially avoid the need for out of the area placements.

Some pupils and their families may positively benefit from a school site closer to their home whilst others may be negatively affected by having to travel further. Having a choice of two locations may provide options to reduce transport overall, especially where a local place that previously would not have been available can be offered.

Older, disabled and younger people living close to the site may be differentially, negatively affected by the loss of the open space as they may find it harder to travel any extra distance to other local sites. Previous consultations had identified a person with a disability who a respondent felt might be adversely impacted by the removal of access to the site as it would compromise their opportunity to access nearby play space. In relation to play space there are 5 other play areas within a mile / 1.1 miles of the site.

For other users of the site including dog walkers and walkers/runners, there is a public right of way adjacent to the Site next to a local rhyme. It is used, along with a neighbouring

field that borders the site, for activities such as running and dog walking. The development that includes Hazell Close, less than a mile away from this site, is a popular area for leisure activities including running and dog walking. Norton Woods are also under a mile from the site and a popular area for dog walkers and for families, although it is noted that this is private land and that in certain areas of Norton Woods dogs must be kept on their lead. It is also envisaged that the public will still have access to the orchard to the south to the proposed school site and access to existing public rights of way (PROW) in the close vicinity.

Overall as there are other alternative nearby facilities within a mile of the site that can be used for leisure purposes, it is considered the benefit from the creation of a new site for 65 - 85 children with profound and severe learning needs provides a greater benefit than the loss of the open space. The loss of immediate open space is outweighed by access for pupils with profound and severe learning needs whose equality of opportunity would be compromised, unlike mainstream pupils, as there would not otherwise be a local school place available to meet their school-place needs.

Corporate Implications:

The Council has a duty to meet the school-place needs of primary and secondary-aged pupils living in North Somerset including those with special educational needs and disabilities. This additional consultation intends to reaffirm the views of pupils, parents, staff and local stakeholders to ensure that the best possible long-term educational outcomes can be achieved for children with S&PLD and that local resources are used effectively across the whole district.

The creation of additional Baytree School places supports the Council's key outcomes that are laid out in North Somerset's Corporate Plan in relation to:

- A Thriving and Sustainable Place – having local places will assist the Council to become a carbon neutral area by 2030
- A Council which Empowers and Cares about People – the project provides places for some of our most vulnerable pupils and allows them to access a local educational provision that will support them leading in the future as independent a life as they can. The school supports its pupils to fulfil their full potential
- An Open and Enabling Organisation – the appropriation of a Council-owned site ensures the Council manages its resources wisely

Appendices:

None.

Background Papers:

- Education Provision in North Somerset ~ A Commissioning Strategy 2018 – 2021 – see <http://www.n-somerset.gov.uk/wp-content/uploads/2015/11/educationcommissioning-strategy.pdf>
- Executive – 5 February 2019 - <http://apps.nsomerset.gov.uk/cairo/docs/doc29420.pdf>
- Council – 19 February 2019 - <http://apps.n-somerset.gov.uk/cairo/docs/doc29460.pdf>
- [Decision CSD58](#)
- [Decision CS63](#)
- [Decision PC14](#)

- Budget approval and award of contract to progress the creation of a new school site to support the expansion of Baytree Special School in Clevedon [Full Council 21st February 2021](#)
- [Education Provision in North Somerset ~ A Commissioning Strategy 2021 – 2024 -](#)
<https://n-somerset.moderngov.co.uk/ieListDocuments.aspx?CId=152&MId=674&Ver=4>

Signatories:

Decision Maker(s):



Signed:

Title: Executive Member for Children’s Services and Lifelong Learning

Date: 3.9.21

With Advice From:



Signed:

Title: Director of Children’s Services

Date: 3.9.21

Footnote: Details of changes made and agreed by the decision taker since publication of the proposed (pre-signed) decision notice, if applicable: