

# North Tyneside Council

## Report to Council

### Date: 7 February 2013

### ITEM 3

Title: Proposals for Kings  
Priory Academy

Portfolio(s): Children, Young People and  
Learning

Cabinet Member(s): Councillor David  
Lilly

Report from Directorate: Children, Young People and Learning

Report Author: Gill Alexander, Strategic Director for  
Children, Young People and Learning

Tel: 0191 643  
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Wards affected: All

#### **PART 1**

##### **1.1 Purpose:**

The purpose of this report is to provide Council with information regarding proposals for the merger of the Kings School in Tynemouth with Priory Primary School and conversion into an academy school. Council received a report on the proposals on 25 October 2012. At that time, it was indicated that a further report would be submitted to enable Council to consider the implications of the proposals.

##### **1.2 Recommendation(s):**

It is recommended that Council note the contents of the report.

##### **1.3 Forward plan:**

This matter is included on the forward plan published on 14 November 2012.

##### **1.4 Council plan and policy framework:**

The report relates to Priority 2 of the Council Strategic Plan 2012 – 2015: Maintaining excellent education, training and employment opportunities, including apprenticeships and working in collaboration with partners.

The report relates to Priority 3 of the Sustainable Communities Strategy 2010 - 2013: Best Start in Life.

##### **1.5 Information:**

- 1.5.1 On 3 September 2012 the Authority became aware of proposals put forward to the Secretary of State for Education by Kings School, Tynemouth (currently an independent

fee paying high school) and Priory Primary School, Tynemouth (currently a local authority maintained school) to merge and become an academy from September 2013.

- 1.5.2 Academy schools are publicly funded, independent schools which operate outside local authority maintenance and control and are directly responsible to the Department for Education. Most of the education legislation that applies to a maintained school does not apply to an academy. Areas which the Department for Education specifically wishes to control may be set out in a Funding Agreement entered into between an academy and the Department for Education. Further information regarding Funding Agreements is set out in paragraph 1.5.8 below. The Academies Act 2010 enables schools to convert to academy status without the agreement of the relevant local authority. The decision maker is the Secretary of State for Education who has the authority to approve the conversion and enter into a funding agreement.
- 1.5.3 The proposed merger of a maintained school and an independent school to create a new academy is the first of its kind. If approved, the academy will become a state funded independent school under the Woodard Academies Trust for children from the age of 4 to 18 years and will call itself The Kings Priory School. The Trust plans a transitional period of a few years, after which time the school aims to have a total school roll of 1350 pupils (including 200 places in the 6<sup>th</sup> form (Years 12 and 13)).

#### Stage of Proposals

- 1.5.4 Following an application by the Woodard Academies Trust and Priory Primary School, the Secretary of State issued an Academy Order (dated 12<sup>th</sup> July 2012). The Order was received by the Authority on 24<sup>th</sup> September 2012 following a direct request to the Department for Education. Under the Academies Act 2010 the Secretary of State is required to supply a copy of the Order to the Local Authority. The Academy Order does not create an academy but is a procedural step in enabling the Priory School to convert to academy status.
- 1.5.5 Prior to a final decision being made by the Secretary of State for Education to approve the conversion:
- i. the Priory School and the Woodard Academies Trust must undertake consultation with such persons as they consider appropriate;
- and
- ii. the Secretary of State must take into account what the impact of entering into the arrangements would be likely to be on maintained schools, academies, further education institutions and alternative provision in the area.
- 1.5.6 The Priory School and the Woodard Academies Trust commenced consultation on 14 December 2012. The closing date for responses is 7 March 2013. Copies of the consultation documents were provided to all members on 14 January 2013 for information and are supplied at Appendix 1 of this report.
- 1.5.7 In September 2012 the Authority received an assurance from the Department for Education that it would work in conjunction with the Authority to prepare an impact assessment. An impact assessment will be required prior to the proposals being considered for final approval by the Secretary of State. The Strategic Director for Children, Young People and Learning (Strategic Director) has sought clarification from the Department for Education as to how it wishes to develop the impact assessment and

awaits a substantive response. In the interim, officers have undertaken preliminary impact assessment work. Further details are provided in paragraph 1.5.12 below and Appendix 3.

- 1.5.8 If a Funding Agreement is entered into by the Secretary of State and the Woodard Academies Trust, the new academy will be created as a new corporate entity in law. The Funding Agreement, in addition to addressing the financial support to be provided, may cover matters such as school admissions, special educational needs, discipline and exclusions, school curriculum and governance.

#### Issues Raised with the Governing Body of Priory School

- 1.5.9 Since becoming aware of the proposals in September 2012, the Strategic Director has engaged in correspondence with the Governing Body of Priory School (via the Chair of Governors). The Strategic Director has raised various issues in correspondence and a summary of issues which remain outstanding are summarised in Appendix 2. The Strategic Director met with the three local authority appointed governors on 19 November 2012 and attended a meeting of the whole Governing Body on 4 February 2013. At the meeting on 4 February 2013 the Strategic Director re-iterated the Authority's key concerns to date regarding the decision making process and requested that those concerns be given proper consideration by the Governing Body as it moves towards the next stages of decision making.
- 1.5.10 If the issues raised are not properly addressed it will be appropriate for the Authority to continue to raise them, for example in the consultation response and beyond. The Authority may assert that both the decision making process and the consultation process are flawed. A particular concern may be that consultees have not been given the necessary information to enable them to provide an informed response or that they have been misinformed by earlier assertions made regarding financial and educational benefits.
- 1.5.11 It is of note that the Governing Body is independent from the Authority. Following their appointment, school governors appointed by the Authority have both the right and the duty to exercise their functions of office independently from the local authority which appointed them and in accordance with their own judgement. The discretion conferred on a local authority to remove a governor which it has appointed may not be exercised in such a way as to usurp the governor's independent role. A House of Lords decision established the current legal position in relation to the independence of school governors (*Brunygate v Inner London Education Authority* (1989)).

#### Initial Assessment of Impact upon existing maintained schools

- 1.5.12 Analysis of the proposed admission criteria associated with the academy proposals, together with other data is ongoing. A preliminary assessment by Council officers indicates that if the Kings Priory proposals proceed there will be a significant impact on the population in schools maintained by the Local Authority. A summary of the main findings is provided in Appendix 3.

#### Capital Investment

- 1.5.13 Priory School has asserted that if it remained a local authority maintained school there was no realistic likelihood of achieving capital investment in the school. However, the Authority had already undertaken a review of all premises related capital investment across the school estate, including Priory School and the School was aware of

the locally agreed arrangements to take forward investment. A detailed summary is provided in Appendix 4.

### The Educational Case for Change

- 1.5.14 The educational case put forward by Priory School and the Woodard Trust in support of the Kings Priory proposals suggests that the merger of Kings School and Priory Primary School will improve educational standards within the Borough. It is the case that both Priory and Kings perform well compared to local and national averages at Key Stage 2 (KS2) and Key Stage 4 (KS4), reflecting the socio-economic profile of their intake and the fact that Kings School selects on ability. Priory School was judged as 'Outstanding' by Ofsted in 2007 and at its last inspection in 2009 Kings School was judged as 'Good'. As a result of this and the historical reputation of both schools the academy proposals have proved popular with some parents.
- 1.5.15 Notwithstanding this, and as detailed in Appendix 5, both schools have areas to address in relation to improving educational standards. For example at 'A' level other schools in North Tyneside out perform Kings School on a number of measures.
- 1.5.16 In addition to this, the pace of change associated with the timetable for creating Kings Priory Academy is challenging. It will be important that any disruption arising from the change process does not divert attention away from raising standards. There are risks associated with the proposed change which could have a detrimental impact on standards. In particular, there would be a need for the new academy to radically change both the secondary curriculum model and approaches to teaching and learning in order to meet the needs of a comprehensive intake and manage the impact of larger class sizes. The school will need to significantly build its capacity to meet the needs of children and young people with more complex special educational needs, those entitled to Free School Meals and those who have particular needs as a result of being in the care system. Further information has been sought on the educational case for change and the approach to managing the above risks. This information has not been provided. In the absence of this detail it is not therefore possible to determine whether the new academy will have an impact on standards of education.

A full commentary on the Educational Case for Change is provided in Appendix 5.

### Next Steps

- 1.5.17 The Authority will prepare:
- (a) a response to the consultation documents; and
  - (b) representations to the Secretary of State concerning the impact of an academy upon other schools in the Borough.
- 1.5.18 The Strategic Director for Children, Young People and Learning will prepare the Authority's response and representations on behalf of Cabinet and in doing so will consult with the Elected Mayor, Cabinet Members and the Party Group Leaders. Views expressed by members during the Council meeting discussion will be taken into account in preparing the relevant documentation.

## **1.6 Decision options:**

Council is asked to note the content of this report.

## **1.7 Reasons for recommended option:**

There are no decision options in this report.

## **1.8 Appendices:**

- Appendix 1 - Consultation documents
- Appendix 2 - Issues raised in correspondence with the Governing Body of Priory Primary School
- Appendix 3 - Summary of Initial Assessment of Impact upon Existing Maintained Schools
- Appendix 4 - Summary of Capital Investment Plans relating to Priory Primary School
- Appendix 5 - Commentary upon the Educational Case for Change

## **1.9 Contact officers:**

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Vivienne M Geary, Head of Legal, Governance and Commercial Services tel: 0191 643 5339

Louise Watson, Manager Legal Services, Environment, Housing and Employment Team tel: 0191 643 5325

Anthony Gollings, Financial Business Manager, Children, Young People and Learning tel: 0191 643 8071

## **1.10 Background information:**

The following background papers and research reports have been used in the compilation of this report and are available at the offices of the author:

The Academies Act 2010  
School Governance Procedures (England) Regulations 2003  
Brunygate v Inner London Education Authority (1989)

## **PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING**

### **2.1 Finance and other resources**

- 2.1.1 Should the academy proposals be approved by the Secretary of State the consequence is that the Dedicated Schools Grant (DSG) the Local Authority receives would reduce as Priory school would no longer be funded by the Local Authority's DSG but would be funded directly by the Education Funding agency (EFA).
- 2.1.2 Following the national "School funding reform" and local consultation throughout 2012/13 the formula for allocating a mainstream school has changed for 2013/14. The formula for 2013/14 and beyond is applicable equally to maintained schools and academy schools. Priory School was due to receive £1.323m as mainstream school formula funding from North Tyneside's DSG in the financial year 2013/14 as a maintained school. This compares with a value for Priory of £1.218m in 2012/13. The formula review has resulted in Priory School having the joint highest £/pupil increase in funding in North Tyneside at 4.6%.
- 2.1.3 When a maintained school converts to academy status, the academy takes on a much broader range of responsibilities. Academies are responsible for securing or providing a range of education services such as improving school attendance, school improvement, governor services, preparing financial accounts, asset management etc. Local authorities have responsibility for these matters on behalf of the schools they maintain. Funding for these services is provided to academies on top of the mainstream school formula funding.
- 2.1.4 From 2013/14 funding for these services will be provided to academies and local authorities through a new grant, the Education Services Grant (ESG). This replaces the previous funding arrangement for academies known as the LACSEG (Local Authority Central Spend Equivalent Grant) where funds were deducted from the local authority and transferred (via the EFA) to the academy each time a school converted. Although details are not known to the Local Authority, it is likely the Woodard Trust will retain an element of the grant funding in relation to the management support and service overheads it will provide to the proposed Kings Priory Academy.
- 2.1.5 The wider financial impact upon other schools in North Tyneside will depend upon the precise admission arrangements of the proposed new school and how successful it is in attracting pupils. The 2013/14 mainstream school funding formula allocations allocates over 88% of the available funds to schools based upon pupil number factors. This means that if any school suffers a reduction in pupil numbers it has a direct impact upon the funding it receives and ultimately its financial stability.

### **2.2 Legal**

- 2.2.1 There are no legal implications directly arising from this report as Council is not making a decision in relation to the academy proposals. The relevant law in relation to academies and governing body decisions is set out in Part One of the report.
- 2.2.2 If it is considered that the Priory School or the Woodard Academies Trust have not carried out proper consultation and/or decision making, or if the Secretary of State does not properly consider all relevant information in reaching a decision to approve the conversion, the Authority may consider challenging the process by way of judicial review.

If such an action were successful the decisions made by the Governing Body or the Secretary of State may be set aside and the flawed processes would need to be undertaken correctly.

2.2.3 Under the Authority's executive arrangements, it is a responsibility of Cabinet under the default provisions in the Local Government Act 2000 to submit the Authority's formal representations to the Secretary of State for Education and the consultation responses to the Priory School and Woodard Trust. The preparation of those responses has been delegated to the Strategic Director for Children, Young People and Learning on behalf of Cabinet and will be subject to consultation with the Mayor, Cabinet Member for Children, Young People and Learning and Party Group Leaders. Arrangements are already in place to enable Party Group Leaders to participate in discussions and for Full Council to debate the proposals. The views expressed through those forums will be taken into account in preparing the Authority's representations to the Secretary of State and the consultation responses.

## **2.3 Consultation/community engagement**

### **2.3.1 Internal consultation**

The matters contained in the report have been discussed with the Elected Mayor and political group leaders through briefings and the Strategic Leadership Group. The detailed assessment work and the response to the consultations will be discussed further through those forums.

### **2.3.2 External consultation/ engagement**

As detailed in the body of the report Officers are in discussions with the Department for Education, the Governing Body of Priory Primary School and the Woodard Academies Trust.

Officers are also taking into account the views of interested parties where provided directly to the Local Authority, for example parents, headteachers and the diocesan authorities.

## **2.4 Human rights**

There are no human rights implications directly arising from this report.

## **2.5 Equalities and diversity**

There are no equality and diversity implications directly arising from this report.

## **2.6 Risk management**

Any risks to the provision of education in the Borough identified as part of the impact assessment will be monitored and appropriate steps will be taken to safeguard against those risks.

## **2.7 Crime and disorder**

There are no crime and disorder implications directly arising from this report.

## 2.8 Environment and sustainability

There are no environment and sustainability implications directly arising from this report.

### PART 3 - SIGN OFF

- Chief Executive  X
- Mayor/Cabinet Member(s)  X
- Chief Finance Officer  X
- Monitoring Officer  X
- Strategic Manager (Policy and Partnerships)  X

### Report authors

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