

Priory Primary School Consultation

Feedback Form: Diocesan Boards of Education Local Authorities Members of Parliament Trade Unions

Priory Primary School intends to merge with King's School, Tynemouth and convert into an Academy. The Governing Body of Priory Primary School would like to consult you on this proposal.

The Kings Priory School prospectus sets out our intentions. The admissions policy is available in a separate document. Both documents are enclosed and are also available on the Priory Primary School website.

Kings Priory School proposes to admit 75 pupils to its Reception Class, 125 pupils to its Year 7 and to have a Sixth Form of 200 pupils (Years 12 and 13 combined).

We are formally consulting on the following question and would be most grateful for your response:

Should Priory School merge with King's School, Tynemouth and be converted to an Academy?

Answer: No. The Local Authority view is that the Secretary of State and the Trust should not enter into the Academy proposals in their current form. Please refer to the attached document headed "Consultation Response on behalf of North Tyneside Council" for the issues and areas of concern for your consideration and response as part of the statutory consultation.

**Body: North Tyneside Council
Name: Gill Alexander
Role: Strategic Director for Children, Young People and Learning**

Please return this form to: enquiries@alligan.co.uk or PO Box 39495 London N10 1ZS by: 7th March 2013

If you wish to make additional comments, please use the reverse side of this page.

Please refer to the attached document headed "Consultation Response on behalf of North Tyneside Council " for the issues and

areas of concern for your consideration and response as part of the statutory consultation.

Consultation Response on behalf of North Tyneside Council

Concerning proposals to merge the Kings School in Tynemouth and Priory Primary School to create an academy (Kings Priory School)

1. The academy proposals have caused concern to elected members across all three of the political parties represented within this Authority. This consultation response has been prepared following liaison with the Elected Mayor, Cabinet Member and the leaders of each political party.
2. North Tyneside Council first became aware of the academy proposals in September 2012 at the point at which they became known to the general public. There was no opportunity for the Authority to contribute its views to earlier discussions between the Governing Body of Priory Primary School and the Woodard Academies Trust. The Authority is not opposed in principle to Academies but is opposed to these proposals in their current form due to the anticipated impact upon other schools and the lack of evidenced educational benefit.

3. Outstanding Matters Raised in Correspondence

The Authority's Strategic Director for Children, Young People and Learning attended a meeting of the Governing Body of Priory Primary School on 4 February 2013. The intention of attending the meeting was explained to the Governing Body in a letter circulated to the meeting as follows:

- i. re-iterate key outstanding concerns regarding the decision making process;
- ii. request that those concerns are given proper consideration by the Governing Body; and
- iii. request that a substantive written response is supplied in relation to the issues raised, in particular setting out how the issues will be addressed.

The Authority had expected to receive a substantive reply to the matters raised prior to submitting its consultation response. In the absence of a response, it is necessary to formally re-iterate those issues in this document and request that they are specifically addressed.

a. Pecuniary Interests and Conflicts of Interest

Pecuniary interests and conflicts of interest may have arisen if any governors with children enrolled in Kings School participated in the

decision making process. There appears to have been no consideration of this in the minutes of the Governing Body meetings supplied to date and therefore the Authority has requested the names of any such governors and confirmation of the steps the Governing Body will take to resolve the issue.

The Department for Education has indicated that there may have been a conflict of interest for governors with children attending Kings School and consequently any relevant governors should have declared a conflict of interest.

The Authority asserts that both interests are relevant but that specifically pecuniary interests would have arisen for governors with children enrolled in Kings School as the merger of the two schools (and thus taking Kings School out of the fee paying independent sector) was intrinsic to the decision of the Governing Body of Priory School to pursue academy status.

Regulation 14 of the School Governance Procedures (England) Regulations 2003 provides that where either a conflict of interest or a pecuniary interest arises, the governors shall disclose their interest, withdraw from the meeting and not vote on the matter in question.

b. Accuracy of Financial Information

The Authority has expressed concern regarding the accuracy of financial information relied upon in the decision to pursue academy status, requested clarification as to the basis of a projected deficit for Priory Primary School and sought confirmation that the Governing Body will reconsider its decision in light of the correct financial information.

The Authority has made repeated requests for the Governing Body to clarify the basis upon which it has projected a deficit for Priory Primary School. The School has not operated a deficit budget for the past six years. In March 2007 the School's balance was in a marginal deficit of £1988. Since then the School's balance has been in excess of £45k each year i.e. always greater than 4% of school funding. At March 2012 the school's balance was £45,361 or 5.2%. This level of balance would be regarded as reasonable and is in line with the average school balance in North Tyneside at March 2012 (of 5.3%).

The 3 year budget plans submitted in May 2012 by all schools provide only an approximate indicator of the medium to long term position due to the significant national changes to school funding from 2013/14. Therefore, although the Authority recognises that the budget plan for Priory outlines a potential emerging deficit at March 2014 it would be expected that the School would be working upon identifying options to avoid this should the funding formula changes not deliver additional funds in 2013/14. This work would include a review of staffing needs,

non staff expenditure and new income/grant opportunities. The Authority has requested further details of the work undertaken in those areas that led the Governing Body to conclude that a deficit at 31st March 2014 was unavoidable.

In a letter dated 14 November 2012 the Chair of Governors asserted that “the principle reasons for the decision were educational and the finance was a due diligence issue”. However, financial considerations have been prominent in all discussions and literature regarding this matter to date. For example:

- i. the Governing Body minutes of 19th March 2012 state that in the headteacher’s view one of the positive aspects of the proposals was “a significant financial benefit for the school”, and that “the current funding model posed a threat to Priory in terms of future provision”. During its deliberations the Governing Body was provided with a section on “Alternatives – what happens if we stay as we are” and the assessment therein was entirely financial. The minutes record that that the funding would be on a free schools model for the whole school and that this would increase funding per pupil by around £700.
- ii. the agreed minutes of a meeting between representatives of the Authority, the Trust and the Governing Body on 7th September state that, “the decision for the academy application was purely financial for both schools. The headteacher indicated that the she would receive around £700 per pupil extra to the current funding allocation.”

Financial considerations in support of the proposals have been publically highlighted by the Governing Body. For example:

- i. The School’s note to parents for a meeting on 10th September 2012 contained a section headed “Our Financial Situation” which stated, “unless the funding model changed, viewed as unlikely in the foreseeable future, the deficit could only be addressed through pay bill reductions at Priory...”

This is misleading. The Governing Body knew or should have known that changes to the funding model were imminent. Following the Department for Education’s consultation, which started in April 2011, the Authority has worked through the school funding reform changes with the School Forum and wider school community and a new funding model for all North Tyneside schools is to be implemented for 2013/14. Furthermore, the Department for Education has confirmed that “from 2013/14 all maintained schools, academies and free schools will be funded on the same basis.”

- ii. A letter from the Chair of Governors published in the News Guardian on 11th October 2012 described at length the Governing Body's reasoning as to why the funding of Priory School was unfair and concluded that, "Given the facts that I have outlined above, our decision to merge to become Kings Priory School is entirely rational, logical and certainly in the best interests of the children attending it."
- iii. Financial considerations were placed before both meetings of the Governing Body and the public as being a key factor in the decision to pursue academy status. The minutes of the Governing Body meeting of 26th March 2012 (at paragraphs 19 and 20) details financial benefits as the first two items in a list of the "Pros of (Joint) Academy Status"; with "Through School" and "Flexibility and Control" following as the third and fourth items on the list.

The Authority has asserted that as the financial information presented in the public and Governing Body domains was flawed it is appropriate that steps are taken to ensure that members of the Governing Body and consultees are not misled regarding the true financial position of the school and of any resulting academy. The Governing Body's decision of 26th March 2012 was conditional upon a number of matters, including confirmation of the funding formula. As the funding for the academy will not be in the form anticipated but will be funded on the same basis as local authority maintained schools the Authority asserts that this decision must be revisited by the Governing Body, with full consideration given to the correct financial position.

In addition to the financial matters set out above, the Governing Body has asserted that there has been a lack of capital investment in the school. The minutes of a Governing Body meeting held on 26 March 2012 state that:

'there is no realistic likelihood of achieving capital investment in the school to (for example) address ICT replacement, address the problems with the school power supply, or in fact to address any issues unless a Health and Safety need could be demonstrated'.

The Authority considers that it is important that the Governing Body understands and makes its decision in light of the capital investment plans that were in place for the School, a summary is therefore attached marked as Appendix 1 to this document. The Local Authority's plan for investment across the whole school estate had been agreed with schools, including Priory Primary School. Included within the 5 year investment priorities for the school estate were items for Priory Primary School for the period 2012/13 to 2016/17 with a total estimated investment of £670k to cover the following items:

- roof repairs & renewals

- electrical improvements
- window repairs & renewals
- repairs & renewal of rain water goods
- toilet improvements; and
- proposals to remove mobile/modular teaching accommodation and replace with permanent new build as part of the Basic Need Investment Programme.

The School had not indicated dissatisfaction with the proposed programme of works and had not instigated an appeal.

Whilst much has been made of the financial case for change, on the information provided the Authority believes that the financial benefits promoted have been misleading. The Authority asserts that the Governing Body must be clear (both in its recorded decisions and with consultees) about the basis upon which it is pursuing academy status.

c. Educational Benefits

The Authority repeats its request for an explanation and evidence as to how the proposed merger and academy proposal will bring educational benefits. The Governing Body has indicated that the reasons relied upon to pursue academy status were educational rather than financial. However, the documentation supplied to the Authority and the Governing Body to date has focused upon the alleged financial benefits of the academy proposals. It is noted that in recent correspondence the Chair of Governor's comments upon educational benefits have centred upon sixth form provision. Notwithstanding the wider discussion about the need and benefits of additional sixth form provision the Authority notes that the merger of the two schools would not in fact be necessary in order for such provision to be made in the Tynemouth area.

In the absence of information supplied by the Governing Body the Authority has prepared a commentary upon the educational case for change based upon information known to the Authority. The commentary is attached marked as Appendix 2 to this document. The Authority's analysis indicates that there are a number of potential risks associated with the merger. Without further information as to how those risks will be mitigated it is unclear how any education benefits will be realised.

d. Governing Body Minutes

Confirmation of the date of the Governing Body meeting at which the minutes of 26th March 2012 were signed off has been sought and a copy of the minutes of that further meeting have been requested. Under Regulation 13 of the School Governance (Procedures) (England) Regulations 2003 the clerk to the Governing Body is required to ensure that minutes of a meeting are drawn up and signed

(subject to the approval of the Governing Body) by the Chair of the next meeting. The minutes of the 26 March appear to have been signed but the meeting at which they were approved by the Governing Body is not clear.

The Authority repeats its requests for copies of minutes and reports/documentation supplied to all further meetings of the Governing Body at which the Kings Priory Academy proposals have been discussed (in accordance with regulation 13 of the School Governance (Procedures) (England) Regulations 2003 and the Freedom of Information Act 2000).

e. Consultation Process

The Authority is particularly concerned that consultees have not been given the necessary information to enable them to provide an informed response and that consultees (and perhaps also the Governing Body) have been misinformed by earlier assertions regarding the financial and educational benefits of the proposals.

There is settled law on consultation, which requires that whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon it must be carried out properly. To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken (*R v Brent London Borough Council, ex parte Gunning* (1986) 84 LGR 168).

The Authority asserts that both the decision making processes and the consultation processes to date are flawed. On 4th February 2013 the Authority asked that the matters above be addressed in good time before the proposed date for closing the consultation. As a substantive response has not been received the Authority formally requests that the consultation period is extended.

A number of parents have approached the Authority to express concern that no attempt has been made to seek the views of parents other than those who have children in Priory Primary School or Kings School. We seek confirmation as to whether or not this is true and if it is, what steps will be taken to rectify the situation. Given that the proposal has significant implications for the whole school system we believe some attempt should have been made to seek the views of the wider public.

4. Impact Assessment

The matters above (section 3 a – e) are in addition to concerns the Authority has regarding the impact the proposals will have upon

other schools in the Borough and upon which representations will be made to the Secretary of State for Education. The Authority is concerned that the Secretary of State took the decision to make the Academy Order based on a very limited high level impact assessment. On 22 October 2012 the Parliamentary under Secretary Lord Hill advised the Authority's Elected Mayor that Department for Education officials had agreed to work with the Authority to prepare a detailed impact assessment that would inform the Secretary of State's decision as to whether to enter into a funding agreement with the Woodard Academies Trust. This was in line with assurances received directly from Department for Education officials to the Authority's Strategic Director for Children, Young People and Learning. The Authority is concerned and disappointed that despite repeated requests to plan the joint assessment work the Department of Education has announced that the assessment is almost complete. The assessment has been undertaken without input from the Authority and in particular, without the benefit of locally held destination data. In light of the lack of engagement the Authority has undertaken its own assessment work which indicates that the proposed Academy would have a significant impact upon the population in neighbouring schools maintained by the Local Authority.

The Authority's two main concerns centre upon the additional surplus capacity that the Academy would create in the whole school system at a time when secondary numbers are falling and the significant detrimental impact the merger of the two schools would have upon the principal feeder school which will experience a 35% decline in its pupil roll over a 5 year period.

At this stage the Authority is concerned that there may be an impact upon primary school places, however until the Authority has received detailed information regarding the offer of reception places for Kings Priory it cannot ascertain whether or not there will be localised detrimental impact on other schools. The Authority is also concerned about the potential impact on Year 9 admissions in the 13-18 age range schools in the Whitley Bay and Monkseaton area but again it cannot fully assess the impact until information about Year 9 admissions is available.

The Authority considers that the Governing Body has given insufficient consideration to the impact of its proposals upon the provision of education in the Borough and the steps it could take to prevent or mitigate such impact. A summary of the current impact assessment is attached marked as Appendix 3 to this document. The current draft of the full impact assessment document can be made available for a confidential discussion between the Authority and the Governing Body at this stage pending the provision of the final draft to the Secretary of State.

Conclusion

The Local Authority is opposed to the Academy proposals in their current form and believes that the case for change has not been made. The Governing Body has not demonstrated that a merger of the two schools is required in order to raise educational standards or to meet the demand for school places within the Borough. The Authority is also concerned about the decision making and consultation process undertaken to date which it considers to be seriously flawed. In particular, the Authority is concerned that:

- insufficient consideration has been given to the significant impact that the merger of the Priory Primary School with Kings School will have upon neighbouring schools;
- there is a lack of clarity and transparency regarding the reasons for change and the proposed educational benefits, which in turn makes it difficult to assess whether or not the proposals are reasonable;
- there has been a lack of consultation at the formative stage of the proposals which has prevented any real consideration of alternative models at an early stage of the process, the result being that the consultation and the publicity to date have been presented on a 'fait accompli' basis rather than real engagement with interested parties; and
- there has been a lack of proper decision making and consultation in accordance with the relevant regulations and settled law.

The Authority therefore formally requests that the Governing Body:

- (1) give careful consideration to this submission;
- (2) recommence its consideration and consultation upon its options at a formative stage during which alternative options can be properly explored and the reasons for change elucidated;
- (3) defer decision making on the basis that any changes to the school structure will not be implemented before September 2014;
- (4) supply a substantive written response to this submission, including the provision of the documents requested;

Gill Alexander, Strategic Director for Children, Young People and Learning on behalf of North Tyneside Council

6 March 2013

Appendices:

Appendix 1 – Summary of Capital Investment Plans

Appendix 2 – Commentary upon the Educational Case for Change

Appendix 3 – Summary of Current Impact Assessment