

Scrutiny & Overview Committee Supplementary Agenda



4. **CALL-IN Proposed closure of Virgo Fidelis Convent Senior School from August 2021 (Pages 3 - 12)**

The Committee is asked consider and respond to the Call-In in accordance with the procedure set out in the Council's constitution.

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For general release

REPORT TO:	Scrutiny & Overview Committee <i>4th February 2021</i>
SUBJECT:	PROPOSED CLOSURE OF VIRGO FIDELIS CONVENT SENIOR SCHOOL
LEAD OFFICER:	Shelley Davies
CABINET MEMBER:	Cllr Flemming, Children, Young People and Learning
PERSON LEADING AT SCRUTINY COMMITTEE MEETING:	Shelley Davies, Interim Director of Education Dr Simon Hughes, Director of Education, Catholic Diocese of Southwark Denise Bushay, Head of Service, School Place Planning and Admissions

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

The recommendations in this report are in line with the new corporate priorities and new Ways for renewing Croydon:

- We will live within our means, balance the books and provide value for money for our residents.
- We will focus on tackling ingrained inequality and poverty in the borough.
- We will focus on providing the best quality core service we can afford.

[Appendix D - Administration Priorities for the Croydon Renewal Plan](#)

ORIGIN OF ITEM:	The consideration of call-in requests is one of the key roles of the Scrutiny & Overview Committee.
BRIEF FOR THE COMMITTEE:	<ol style="list-style-type: none"> 1. <i>To hold the decision takers to account on their decision and to the evidence that underpins their reasoning to recommend closure of Virgo Fidelis Secondary School.</i> 2. <i>To ensure that there are sufficient secondary school places in Croydon for Croydon pupils and that the decision will not adversely affect disadvantaged groups</i> 3. <i>To ensure that there is no undue negative impact on other Croydon schools as a result of this decision</i> 4. <i>To obtain reassurance on the future use of the site</i> 5. <i>To obtain reassurance on the treatment of the accumulated budget deficit</i>

	<p>6. <i>To ensure that the decision does not unduly restrict the choice of parents to send their children to a single sex school or a school of religious character.</i></p>
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1. EXECUTIVE SUMMARY

- 1.1 This paper reports on the outcomes from the statutory consultations on the proposed closure of Virgo Fidelis Convent Senior School from August 2021. It recommends that cabinet consider representations made and decide whether to approve the proposed closure of the school from 31st August 2021.
- 1.2 The report includes a summary of responses and representations received during the consultation periods and the council and diocese response to issues/concerns raised. The consultation documents and outcome reports are appended to this report.
- 1.3 Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood. The Interim Executive Board [IEB], in consultation with Croydon Council and the Archdiocese of Southwark agreed to undertake statutory consultation on the proposed closure of Virgo Fidelis Convent Senior School, from August 2021.
- 1.4 The reasons for the proposed closure are because the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use); the pupil roll has fallen consistently over the past several years; the school budget has been in deficit over the past several years with the school now in significant debt.
- 1.5 A pre-publication consultation on the proposed closure of Virgo Fidelis Convent Senior School took place from 01 October 2020 to 23 October 2020. A total of 60 responses were received during the pre-publication consultation period and the majority do not support the proposed closure of the school. The full outcomes report is at Appendix 1a.
- 1.6 The representation - formal consultation - on the proposed closure of Virgo Fidelis Convent Senior School started on 12 November and ended on 10 December 2020 and the majority of respondents do not support the proposed closure of the school. The full outcomes report is at Appendix 2b.

2. BRIEF FOR THE COMMITTEE

The reasons for the call-in were:

- 2.1 **To hold the decision takers to account on their decision and to the evidence that underpins their reasoning to recommend closure of Virgo Fidelis Secondary School.**

Response

- 2.1.1 The Interim Executive Board, Croydon Council and Archdiocese of Southwark share the collective view that the school is no longer viable. There are several reasons contributing to this shared view, chiefly:
- a. the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use due to health and safety concerns)
 - b. the pupil roll has fallen consistently over the past several years
 - c. the school budget has been in deficit over the past several years with the school now in significant debt.
- 2.1.2 As a consequence of the above, as well as other factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum that it would be reasonable to expect of a modern secondary school now and in the immediate and longer term future.
- 2.1.3 Please refer to background papers:
- 2 – supporting evidence; and
 - 6 – IEB report.
- 2.2 **To ensure that there are sufficient secondary school places in Croydon for Croydon pupils and that the decision will not adversely affect disadvantaged groups.**
- 2.2.1 **Response**
Pupil projections indicate that currently there is sufficient school places across the borough to accommodate pupils on roll at Virgo Fidelis.
- 2.2.2 An equality analysis has been undertaken to help us to understand whether people with protected characteristics, as defined by the Equality Act 2010, will be disproportionately affected by the proposed closure of the school. The equality analysis indicates that the proposed changes will not negatively impact on any groups that share protected characteristics and that no major change is required as the proposal meets the general and specific equality duties as required by the Equality Act. However, it is acknowledged that if the proposal is approved, it will result in less Catholic schools in the borough.
- 2.2.3 Croydon schools provide diverse educational provision in terms of type/category, size and educational sponsors. These include faith/church schools, special schools, mainstream schools and Academies /Free Schools. Pupils are allocated a school place based on the admissions criteria which aims to promote fair access to schools and are compliant with the School Admissions Code.
- 2.2.4 The proposed strategy supports the Council's general equality duty to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010; to advance equality of opportunity and foster good relations between persons who share a protected characteristic and those who do not.
As part of the proposal to close a school that has been designated with a religious character, the council is required to consider the effect that this will have on the balance of denominational provision in the area.

2.3 To ensure that there is no undue negative impact on other Croydon schools as a result of this decision

Response

- 2.3.1 Currently there are sufficient school places across the borough to accommodate pupils on roll at Virgo Fidelis.
- 2.3.2 There are 2 other single sex girls' schools in Croydon – Coloma Convent Girls' and Norbury Manor Business and Enterprise College.
The council will continue to work closely with the Archdiocese of Southwark regarding Catholic secondary school places within the borough.

2.4 To obtain reassurance on the future use of the site

Response

- 2.4.1 The school's buildings will remain with the Trustees of Our Lady of Fidelity Established at Upper Norwood, London, who will look to maintain the historic buildings where possible.
- 2.4.2 The Trustees informed us that the land will be retained as an Educational Facility and this will be ensured by the Congregation of Our Lady of Fidelity.

2.5 To obtain reassurance on the treatment of the accumulated budget deficit

Response

- 2.5.1 Under current legislation, where a maintained school closes any balance held by the school (whether surplus or deficit) reverts to the Local Authority and cannot be transferred as a balance to any maintained school, even where the school is a successor to the closing school.
- 2.5.2 Therefore, the closure of Virgo Fidelis will have a negative impact of approx. £2.5m on the Council's revenue budget. This will put increasing pressure on an already heavily pressurised budget and will need to be funded by the Council taxpayers of Croydon.
- 2.5.3 During the next 12 months the Council will be working with Virgo Fidelis and the Diocese to ensure that the school manages its budget as efficiently and effectively as possible to ensure the final deficit is kept to a minimum. Options will be explored to see if any additional income can be generated from this site to offset some or all of this forecast deficit.
Legal advice has been sought.

2.6 To ensure that the decision does not unduly restrict the choice of parents to send their children to a single sex school or a school of religious character.

Response

- 2.6.1 As part of the proposal to close a school that has been designated with a religious character, the council is required to consider the effect that this will have on the balance of denominational provision in the area. The council must also consider the number of pupils currently on roll at the school, the medium and long term need for places in the area and whether educational standards at the school have been persistently low.

2.6.2 When planning the provision of school places in the borough, a key part of the council's duty is to provide diversity in its educational offers to increase opportunities for parental choice. Whilst bearing this in mind, it is important to note that there has been a declining roll at the school which has contributed to a significant financial deficit as the majority of funding received by schools is determined by the number of children on roll.

3. DETAIL

3.1 Virgo Fidelis Convent Senior School, is a Roman Catholic voluntary aided secondary school for girls aged 11–18 located in Upper Norwood in the London Borough of Croydon. The school is part of the educational provision of the Archdiocese of Southwark and the London Borough of Croydon.

3.2 The Interim Executive Board (IEB), in consultation with Croydon Council and the Archdiocese of Southwark agreed to commence the statutory process for the proposed closure of the school from August 2021 as the school is no longer considered viable due to the majority of the building being unfit for purpose; low pupil number and significant deficit. As a consequence of these factors, the school is increasingly hampered in its capacity to deliver a broad and balanced curriculum.

3.3 On 1st October 2020, the Leader of the Council delegated authority to the Executive Director of Children, Families & Education, in consultation with the Cabinet Member for Children, Young People & Learning to authorise the Council to commence the statutory process — consultation; publication of proposal and representation - regarding the proposed closure of Virgo Fidelis Convent Senior School.

3.4 Pre-publication consultation

In line with the Department for Education guidance: Opening and closing maintained schools, Statutory guidance for proposers and decision-makers, November 2019, a pre-publication consultation on the proposed closure of the school took place from 01 October 2020 to 23 October 2020 where those who will be directly affected by the proposed closure could share their views.

3.5 A total of 60 responses were received during the pre-publication consultation period; 57 of the 60 responses were received via the online survey and 3 were received via email. Of the 57 online respondents:

- 32 do not support the proposed change.
- 12 do support the proposed change
- 12 were not sure
- 1 was not affected/did not wish to answer the questions

3.6 The consultation document – Appendix 1; and consultation outcomes report – Appendix 1a – are attached.

3.7 Publication of statutory notice / Representation – formal consultation

A statutory notice was published in the Croydon Guardian newspaper and on the Council and school's website on 12 November 2020, which started the representation - formal consultation period. The formal consultation period

- lasted four weeks from 12 November to 10 December 2020 which allowed any person to send objections or comments to the council.
- 3.8 A total of 34 responses have been received during the representation period, of which:
- 22 do not support the proposed closure of the school,
 - 8 do support the proposed closure of the school, of which
 - 4 were not sure
- 3.9 The statutory notice – Appendix 2; representation document – Appendix 2a; and representation outcomes report –are attached at Appendix 2b.
- 3.10 Issues raised during pre-publication and representation periods
The main issues raised during both consultation periods are
- (a) about the potential disruption on students' education;
 - (b) loss of Catholic Secondary School places and single sex schools in Croydon; and
 - (c) history attached to the school
- 3.11 Response to issues raised
- (a) **about the potential disruption on students' education.**
To minimise any potential disruption, subject to approval, the proposed closure will take place at the end of the academic year – 31st August 2021. This will mean that Year 10 pupils can continue their learning at St Mary's Catholic High School; Year 11 students would have completed their GCSE examinations and pupils in Years 8 and 9 at the school can start the academic year at a new school.
- (b) **loss of Catholic Secondary School places and single sex schools in Croydon**
The council will continue to work closely with the Archdiocese of Southwark regarding Catholic secondary school places within the borough.
- A key part of the council's duty is to provide diversity in its educational offers to increase opportunities for parental choice. Whilst bearing this in mind, it is important to note that there has been a declining roll at the school which has contributed to a significant financial deficit as the majority of funding received by schools is determined by the number of children on roll.
- Currently there is sufficient school places across the borough to accommodate pupils on roll at Virgo Fidelis, and including places in Catholic Schools.
- (c) **history attached to the school**
The Trustees response - The school's buildings will remain with the Trustees of Our Lady of Fidelity Established at Upper Norwood, London, who will look to maintain the historic buildings where possible.
- 3.12 The consultation outcome reports – Appendices 1a and 2b - contain the full details and our response to the issues raised.
- 3.13 The council's cabinet is the final decision maker on the proposed closure of Virgo Fidelis Convent Senior School and must make a decision within a period of two months of the end of the representation period, otherwise the proposal must be referred to the Schools Adjudicator for decision.

4. CONSULTATION

- 4.1 The Department for Education statutory guidance for proposers and decision-makers - Opening and closing maintained schools, November 2019 – outline the statutory process that must be followed for closing a maintained school:
- (i) It is a statutory requirement to consult any parties the proposer thinks is appropriate before publishing proposals
 - (ii) A statutory proposal should be published within 12 months of the initial consultation period being completed
 - (iii) The representation period starts on the date of publication of the statutory proposal and must last for four weeks. During this period, any person or organisation can submit comments on the proposal to the LA, to be taken into account by the decision-maker.
- 4.2 The council has been compliant to the above statutory requirements in relation to the proposed closure of Virgo Fidelis Convent Senior School. A copy of the consultation document, statutory notice and representation document is attached at Appendices 1, 2 and 2a respectively.

5 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 5.1 The reasons for the proposed closure are because the majority of the buildings estate needed for a viable 11-16 secondary school is unfit for purpose and in poor repair (these portions of the estate are currently out of use); the pupil roll has fallen consistently over the past several years; the school budget has been in deficit over the past several years with the school now in significant debt.
- 5.2 Funding for schools is largely based on pupil numbers, and with reducing demand for places in recent year Virgo Fidelis has had insufficient funding to cover costs. In addition to a large portion of funding being directly related to the number of pupils attending a school, irrespective of the pupil numbers there are fixed running costs to be met from the schools delegated budget. Over the past number of years, the school's financial position has worsened as a consequence of a fall in pupil numbers, exacerbated by a deteriorating estate.
- 5.3 Virgo Fidelis financial position over the past four years and the estimated final position, as at 31 March 2021, is outlined in the table below:

Year	Delegated Funding £	Deficit (Carry Forward) £
2016-17	2,656,689	-839,000
2017-18	2,435,828	-1,267,621
2018-19	2,502,844	-1,669,868
2019-20	2,521,750	-1,947,346
2020-21	2,344,995	-2,177,728

- 5.4 Virgo Fidelis had a carried forward deficit of £1.947m as at March 2020, with a projected year end deficit of £2.178m (operating with a 2019/20 in-year deficit of £0.231m) by March 2021, and a total estimated deficit of and estimated £2.5m by August 2021. This deficit will only increase if the school remains open and does not operate at full capacity.
- 5.5 Under current legislation, where a maintained school closes any balance held by the school (whether surplus or deficit) reverts to the Local Authority and cannot be transferred as a balance to any maintained school, even where the school is a successor to the closing school.
- 5.6 Therefore, the closure of Virgo Fidelis will have a negative impact of approx. £2.5m on the Council's revenue budget. This will put increasing pressure on an already heavily pressurised budget and will need to be funded by the Council taxpayers of Croydon.
- 5.7 During the next 12 months the Council will be working with Virgo Fidelis and the Diocese to ensure that the school manages its budget as efficiently and effectively as possible to ensure the final deficit is kept to a minimum. Options will be explored to see if any additional income can be generated from this site to offset some or all of this forecast deficit.

LEGAL CONSIDERATIONS

- 6.1 School place planning duties (s13-14 Education Act 1996).
- 6.2 The Council as an education authority has a duty to promote high standards of education and fair access to education. It also has a general duty to secure sufficient schools in their area. This includes a duty to respond to parents' representations about school provision. These are referred to as the school place planning duties.
- 6.3 Section 16 of the Education & Inspections Act 2006 establishes the consultation procedures for statutory proposals, and local authorities also have a duty to have regard to statutory guidance, in this particular case, the Department for Education's (DfE) guidance: "Opening and closing maintained schools, Statutory guidance for proposers and decision-makers, November 2019."
- 6.4 The Cabinet should consider the views of all those affected by the proposal or who have an interest in it. This includes statutory objections and comments submitted during the representation period. These are summarised in paragraphs 3.5 and 3.8 and full details in appendices 1a and 2b. The Cabinet should not simply take account of the numbers of people expressing a particular view when considering representations made on the proposal but should give the greatest weight to representations from those stakeholders most directly affected by the proposal.
- 6.5 The Cabinet must be satisfied that the consultation meets statutory requirements. If the requirements have not been met, the Cabinet may judge the proposal to be invalid and should consider whether they can make a decision on the proposal. Alternatively the Cabinet may take into account the

sufficiency and quality of the consultation as part of their overall judgement of the proposal as a whole.

- 6.6 The LA will be the decision-maker on a school closure proposal and must make a decision within a period of two months of the end of the representation period or refer the case to the Schools Adjudicator. When issuing a decision, the decision-maker can:
- reject the proposal;
 - approve the proposal without modification;
 - approve the proposal with such modifications as they think desirable, after consulting the LA and/or proposer (as appropriate); or
 - approve the proposal – with or without modification – subject to certain conditions¹⁵ (such as the granting of planning permission) being met.

EQUALITIES IMPACT

- 7.1 An equality analysis has been undertaken to help us to understand whether people with protected characteristics, as defined by the Equality Act 2010, will be disproportionately affected by the proposed closure of the school.
- 7.2 Croydon schools provide diverse educational provision in terms of type/category, size and educational sponsors. These include faith/church schools, special schools, mainstream schools and Academies /Free Schools. Pupils are allocated a school place based on the admissions criteria which aims to promote fair access to schools and are compliant with the School Admissions Code.
- 7.3 The proposed strategy supports the Council's general equality duty to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010; to advance equality of opportunity and foster good relations between persons who share a protected characteristic and those who do not.
- 7.4 The equality analysis indicates that the proposed changes will not negatively impact on any groups that share protected characteristics and that no major change is required as the proposal meets the general and specific equality duties as required by the Equality Act. However, it is acknowledged that if the proposal is approved, it will result in less Catholic schools in the borough, however there will still be sufficient Catholic School places.
- 7.5 As part of the proposal to close a school that has been designated with a religious character, the council is required to consider the effect that this will have on the balance of denominational provision in the area. The Council will continue to work closely with the Diocese regarding Catholic secondary schools within the borough.
- 7.6 School Admissions would ensure that appropriate provisions are in place for any displaced pupils. They would ensure that parental preference and family circumstances such as siblings are considered when offering school places to minimise the impact on families where possible.
- 7.7 An individual and tailored approach will be used to help pupils with disabilities transition to another school. School transport support provided. An alternative place will be identified that meets their needs

Appendices

Appendix 1 – Pre-publication consultation document

Appendix 1a – Pre-publication consultation outcomes report

Appendix 2 – Statutory Notice

Appendix 2a – Representation – formal consultation - document

Appendix 2b – Representation – formal consultation – outcomes report

Appendix 3 – Equality Analysis

Appendix 4 – Difference between community and voluntary aided school

Appendix 5 – History of Virgo Fidelis Convent Senior School

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BACKGROUND DOCUMENTS:

Background 1 - Sect 48 – Inspection report

Background 2 – Supporting evidence

Background 3 – Fire enforcement notice

Background 4 - Report on status of the building

Background 5 – IEB report