

CABINET

6 SEPTEMBER 2011

REVOCAION OF DECISION TO AMALGAMATE LUTON INFANT AND JUNIOR SCHOOLS

Portfolio Holder: Councillor Les Wicks, Children's Services

Report from: Rose Collinson, Director of Children and Adults

Author: Paul Clarke, School Organisation Officer

Summary

The report is for Cabinet to consider whether or not it wishes to proceed with the implementation of the decision to close Luton Infant and Junior Schools, and in their place to open a new all through primary school in new buildings in September 2014 and to determine whether to request a revocation of the decision made by the Office of the Schools Adjudicator (OSA) on 8 June 2010 in relation to such proposals. If Cabinet decides that it wishes to request revocation, it will be necessary to publish and advertise revocation proposals and then submit the proposals together with any representations to the OSA for decision.

1. Budget and Policy Framework

1.1 The original proposals to amalgamate Luton Infant and Junior Schools were consistent with the provisions of the school organisation principles, were within budget, and were therefore a matter for Cabinet. It follows that whilst we are required to submit the revocation proposals to the OSA for decision, it is a matter for Cabinet to determine that it no longer wishes to proceed with the proposals and to approve the period of statutory representation where we will publish fresh proposals for the council to be relieved of its duty to implement the original proposals.

2. Background

2.1 Medway Council's Primary Strategy for Change was developed and submitted to the (then) Department for Children, Schools and Families (DCSF) to secure capital investment for a number of school projects. In order to secure the investment the strategy had to set out proposed building projects over a six-year period from 2008-2014. This programme allowed the council to be ambitious and strategic in planning the capital programme for schools, and projects were phased, based upon the expected availability of funding.

2.2 The decision was taken to prioritise some of this funding to support the amalgamations of schools, including the proposed amalgamation of Luton Infant and Junior Schools.

- 2.3 The Cabinet considered a report at its meeting on 12 May 2009, which presented a number of proposals for the future of primary education in Medway, and agreed to consult on the amalgamation of Luton Infant and Junior Schools into a single primary school on the existing sites of the schools, for which new buildings would be provided.
- 2.4 On 15 December 2009, following a report outlining the outcomes of the consultation period, Cabinet authorised the publication of formal proposals and notices during a period of statutory representation, which took place between 25 January and 7 March 2010, to which there were no representations made.
- 2.5 The Secretary of State had given consent for the council to publish proposals to establish a new school without a competition.
- 2.6 In accordance with the procedures established by the Education and Inspections Act 2006 and The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007, it fell to the Office of the Schools Adjudicator (OSA) to determine the proposals to amalgamate Luton Infant and Junior Schools following the period of statutory representation. The adjudicator's decision is included as appendix 1.

3. Options

- 3.1 The options are:
- a) To approve the period of statutory representation which will enable the council to publish fresh proposals to be relieved of the duty to implement the original decision or;
 - b) Not to approve the statutory period, which would mean that the original decision could not be revoked, and therefore the council would continue to be obliged to amalgamate the schools, and provide new school buildings to complement this, but for which there is insufficient funding due to significant reductions in the council's capital allocation.

4. Advice and analysis

- 4.1 The original related proposals to close both Luton Schools and to open a new all through primary school in their place were approved by the OSA in June 2010. The rebuilding project was considered integral to the amalgamation process by the adjudicator and a condition set that planning permission for the new school buildings was to be in place by 31 December 2011.
- 4.2 The council's anticipated capital allocation from central government, from which the project to build the new school was to be funded as part of the primary capital programme, has been significantly reduced by the Coalition Government's spending review, meaning that funding is no longer available for a number of projects including the one to rebuild Luton.
- 4.3 In addition, the level of devolved capital funding to schools has been significantly reduced from almost £5m in 2010/11 to less than £800,000 for 2011/12. The impact of this reduction is that the local authority will need to direct a much higher proportion of our capital funding to routine condition and maintenance issues which schools themselves would previously have funded.

- 4.4 Therefore the condition set by the OSA when making the original decision cannot now be met, and formal revocation of the original decision is necessary to remove the council's duty to implement the proposals.
- 4.5 The decision to be relieved of the duty to implement the original proposals will need to be taken by the OSA, however the council must first publish statutory notices and full proposals stating why the original decision cannot be implemented. There will be a six-week representation period when comments and objections to the new proposals can be submitted by stakeholders. A report must then be submitted within two weeks of the end of the statutory period to the OSA for their decision.

5. Risk Management

5.1

Risk	Description	Action to avoid or mitigate risk
Criticism of spending decisions	1) Criticism of council for not proceeding with a significant building project due to a lack of understanding that the decision is entirely due to reductions in national funding. 2) Criticism of council for proceeding with a building project without a guaranteed source of funding, which could lead to abortive costs being incurred unnecessarily.	Clear information included in statutory proposals. Put forward proposals to revoke the original decision.

6. Consultation

- 6.1 The statutory representation period will allow parents, pupils, staff, governors, the local community and any other interested stakeholders the opportunity to put forward comments opinions and objections to the council's proposals to be relieved of the duty to implement the original decision.
- 6.2 The process will take the form of a published notice at the schools, local libraries and within the local press. Copies of the full proposals will be sent to those persons previously consulted during the original statutory period in 2009. The proposals will also appear on Medway Council's website.
- 6.3 The governors and head teachers at both schools have been made aware of the council's intentions and advised of the revocation process.
- 6.4 The statutory representation period will take place over a six-week period outside of any school holiday periods during September and October 2011. All responses received will be collated and will form part of the revocation report that will be submitted to the OSA for determination. The outcomes of the representation period and the request for revocation must be made to the OSA within two weeks from the end of the statutory period.

6.5 Members will be informed of the outcome of this statutory process following the OSA's determination.

7. Financial and legal implications

7.1 As we are requesting that the decision to amalgamate Luton Infant and Junior Schools be revoked, there will be no further financial implications for the council in relation to these proposals.

7.2 If the Cabinet do not approve the request to proceed to a period of statutory representation, the council would be obliged to continue with the amalgamation and to provide new schools buildings to complement this, at an estimated cost of £6.96m, for which no provision has yet been made in the 2011-12 capital programme.

7.3 If proposers cannot implement approved proposals they must publish fresh proposals to be relieved of the duty to implement. Regulation 26(2) of the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 (as amended) states that revocation proposals must contain the following information:

- a description of the original proposals as published;
- the date of publication of the original proposals;
- details of who published the proposals; and
- a statement as to why it is proposed that the duty to implement proposals should not apply in relation to the original proposals

8. Recommendations

8.1 That Cabinet approves the request to the Office of the Schools Adjudicator to revoke the decision made by the Office of the Schools Adjudicator (OSA) on 8 June 2010 to close Luton Junior and Infant schools and open a new all through primary school and authorises the publication of statutory notices as required to give interested stakeholders the opportunity to comment on and raise objections to the proposal to request a revocation of such decision.

9. Suggested reasons for decision

9.1 The decision for Cabinet is to approve the request to the Office of the Schools Adjudicator to revoke the decision made by the Office of the Schools Adjudicator and thereby relieve Medway Council of its duty to implement the conditions of the determination and the financial burdens that would be placed upon the council and to authorise the publication of statutory notices in relation to the revocation proposals.

Lead officer contact

Paul Clarke, School Organisation Officer, 01634 331031
paul.clarke@medway.gov.uk .

Background papers

Establishing a New Maintained Mainstream School – A Guide for Local Authorities

Closing a Maintained School – A Guide for Local Authorities and Governing Bodies

Making Changes to Maintained Mainstream School - A Guide for Local
Authorities and Governing Bodies
The School Organisation (Establishment and Discontinuance of Schools)
(England) Regulations 2007

Appendices

Determination report by Office of the Schools Adjudicator to amalgamate Luton
Infant and Junior Schools

DETERMINATION

Case reference: STP/000488

Proposal: To discontinue Luton Infant School, Chatham and Luton Junior School, Chatham, and establish a new community primary school

Proposer: Medway Council

Date of decision: 8 June 2010

1.

Determination

Under the powers conferred on me by Schedule 2 to the Education and Inspections Act 2006, I hereby approve the proposals to discontinue Luton Infant School and Luton Junior School, Chatham on 31st August 2014 and establish a new community primary school on 1st September 2014, conditional upon planning approval being obtained before 31st December 2011.

The referral

1. On 10th March 2010, Medway Council (“the Council”) wrote to the Office of the Schools Adjudicator, referring its proposals made under sections 10 and 15 of the Education and Inspections Act 2006 (“the Act”) for consideration under Schedule 2 of the Act. The proposals are to close Luton Infant School, Chatham (“the infant school”) and Luton Junior School, Chatham (“the junior school”), on 31st August 2014, and open a new community primary school (“the proposed school”) on the same site as the two present schools on 1st September 2014.

Jurisdiction

2. On 25th January 2010, having carried out the appropriate consultation, the Council formally published the proposals on the basis of permission from the Department for Children, Schools and Families (now the Department for Education, “DfE”). The notice was in the form required by the Education and Inspections Act 2006 (the Act). Since the Council was itself the proposer, the proposals have been referred to me for determination, under Paragraph 10 of Schedule 2 to the Act. I am satisfied that the proposals has been properly referred to me and that, therefore, I have jurisdiction to determine this matter.

Procedures

3. In considering this matter I have had regard to all relevant legislation and guidance.

4. I have considered all the papers put before me including the following:

- the Council's referral letter with prescribed information as set out in the relevant regulations;
- the Council's consultation document, papers describing the Council's processes of consultation and decision making, and analysis of the responses to consultation;
- a letter from the DfE, giving permission for proposals to be published without a competition;
- a copy of the published notice;
- a plan of the site of the existing schools;
- Ofsted reports for the two schools;
- replies from the Council to questions I posed; and
- representations from many with an interest in to outcome of the proposals, including some local residents.

5. I visited the two schools on 30th April 2010, to view at first hand the existing schools' accommodation, the site for the proposed new school and the locality of this site. I held a roundtable meeting on the same day, to gain a clearer understanding of various points from representatives of the Council and the two existing schools, and a public meeting also on the same day, attended by representatives of the Council and around sixty parents, governors, staff and local residents. I have considered the information and representations put to me at that meeting, and the representations sent to me after the meeting.

The Proposal

6. Both of the two present schools have admissions numbers of 100, and the infant school has nursery provision for 75 (fulltime equivalent) children. In accordance with the its policy, the Council has proposed the amalgamation of the two schools on the present site, the proposed school to have an admissions number of 90 together with nursery provision of the present capacity. The Council has made an allocation from its primary capital allocation to provide new buildings on the existing shared site as part of the amalgamation process.

Views on the Proposals

7. The Council's policy is for pairs of infant and junior schools to be amalgamated in particular circumstances, on the grounds of 'smoother transition between the key stages', and on the basis of evidence from previous amalgamations of improvements in standards resulting. In this case, the Council has explained, what precipitated the proposals was an opportunity to secure Government capital funding that would enable the two existing school buildings to be replaced with a superior, single building.

8. The Council has reported that there were 24 written responses in its consultation process, the majority from local residents, and a further 81 reply slip responses after the end of the consultation period. The Council has stated that 13% of the respondents supported the proposals and 87% opposed them. Of those opposing the proposals who made specific comments, the most widely held reflected environmental and amenity concerns at the effects of building work, with the next largest number expressing concern at a possible loss of the schools' present caring ethos, particularly for disadvantaged families. The Council has reported further that there were no responses of any kind to the public notices of the proposals.

9. The infant school governors' written response to the Council expressed concern about the proposals for the reasons that:

- the emotional wellbeing of children, particularly the more vulnerable, would suffer in a larger school, and Year 2 children would lose their opportunity to exercise responsibility;
- close relationships with parents would be put at risk with a larger school;
- uncertainty could cause good staff to leave;
- the safety of children and parents entering and leaving the proposed school site could be compromised;
- 'parental choice is being removed', and children would have no experience of transition prior to the transition to secondary school;
- after limited consultation, the Council is proceeding without regard to views in the infant school and purely for financial reasons; and
- the Council has not confirmed that amalgamation will not occur unless a new building is forthcoming.

I shall consider these concerns as I consider the proposals as a whole, below.

10. The junior school headteacher's response to the Council expressed support for the proposal for a new building, in view of deficiencies in the present one, but concern that the proposed new school would be too large to meet the emotional needs of children 'in such a challenging area'. The chair of governors' response supported the Council's proposal to amalgamate the two schools, for some of the reasons advanced by the Council, and also the proposal for a new building for reasons of deficiencies in the present building. The junior school's leadership team have indicated support for the proposals in terms of amalgamation and replacement of unsatisfactory buildings, but believe that local children and families need a school of smaller size than that of the one proposed.

Consideration of Factors

11. I believe the Council's processes of consultation to have been

thorough. In considering the proposals, I have taken into account the arguments put to me by the Council and other interested parties.

Standards and Diversity

12. The February 2008 Ofsted report described the infant school as ‘a good, effective school’. The March 2008 report for the junior school has the summary, ‘The overall effectiveness of Luton Junior is satisfactory’, but an HMI monitoring letter of March 2010 reported ‘good progress in making improvements’. I have examined the results of Key Stage 2 tests at the junior school. Attainment has fluctuated in recent years, with an overall marginal improvement, but with results being persistently below the Medway averages (which in turn are below the England averages). The measure of progress (known as ‘contextual value added’) during the junior years is a little below the national average.

13. It is clear from both reports and the letter that both schools face particular challenges, including those from children of Eastern European origin with little English language. Indeed, my attention was drawn, in the course of my visits, to the significant influx of such children with significant degrees of social and educational deprivation. Although the schools are making good provision for these children, their presence imposes an additional load upon the school communities in meeting their needs.

14. Although the general evidence about the relative effects of children being educated in separate infant and junior schools and ‘all-through’ primary schools is not conclusive, the Council has cited evidence from renowned sources and local data to support the contention that transition between separate schools is likely to have a detrimental effect on children’s achievement. I accept the Council’s rationale for amalgamation. I believe too that shared governance and leadership arrangements can only have a positive effect for continuity in terms of teaching and pastoral care.

15. I understand the concerns that have been expressed from both present schools about the effects of being part of a larger ‘all-through’ primary school. However, three-form entry primary schools, as is proposed, while seeming large to those associated with the present schools, are not unusual. The larger a school, the more opportunity there is for it to function in smaller units within the school – in key stage, year group and/or class units, with greater pastoral responsibility being shared among school leaders within the school. I do not therefore believe – and am not aware of evidence – that children do suffer from being part of a school like that proposed; and children can learn to exercise responsibility without being the oldest group within the whole of a school. I believe that, if I approve the proposals, parents and staff will find that their fears have been largely unnecessary. Similarly, I do not believe that it should be necessary to invent or perpetuate points of stress for children (such as transition from one school to another) in order to prepare them for future occasions for stress (such as moving to secondary school); while moving from infant school to junior school may indeed constitute preparation, it could as easily be argued that the greater consolidated sense of security gained within an ‘all-through’ primary school,

coupled with the lesser changes from one year group to another, is itself as good a platform as any from which to embark.

16. It is, of course, possible that, as has been argued, there may be a slight dip in overall pupil performance as a result of amalgamation and rebuilding, but, even it should occur, I believe that it is likely to be outweighed in the long term.

Need for places and admissions

17. The Council has reported a fall in primary age pupils attending Medway schools of 10% between 2003 and 2009. It also reports an overall increase in Medway births from 2004 onwards, but only by 2% by 2013, leaving a high proportion of surplus places in some areas (which stood at 12.6% in January 2009). At the same date, the infant school had 29% of places surplus and the junior school 18%. Data provided by the Council indicate that, even with the proposed amalgamation and a rising birth-rate in Chatham, there would be surplus places of 29.2% in January 2015. I therefore asked the Council for more information to justify the proposal that the new school should be provided, and should have an admission number reduced from the present 100 to 90. I was particularly concerned to note that, although the Council has a policy of enlarging successful and popular schools, it had not advanced any plans to enlarge primary schools in the vicinity of the Luton schools that seemed to meet that description. The Council has described the practical problems that would be encountered in enlarging each of these schools, and has provided evidence of site insufficiency at most local primary schools. The Council believes that the notionally surplus places in the proposed amalgamated school and in nearby schools would probably be filled, directly or indirectly, by children unable to obtain places at the oversubscribed schools. I accept, in any case, that the present and forecast pupil numbers at the Luton schools and the proposed school comprise, on average, more than two classes of 30 children in each year group, and that it would therefore be prudent to build the new school for three classes in each year group.

18. I have considered the issues of responsiveness to parental wishes, and have noted that, although there has been considerable opposition to the proposals, it has come mostly from local residents, rather than from parents. It is nevertheless the case that the infant school governing body has expressed opposition to the proposals, although the junior school governing body, largely for the reasons advanced by the Council and particularly in terms of the unsuitability of the present buildings, has supported them.

19. I have considered the outline for the proposed school's oversubscription criteria, and have found them acceptable, and, so far as I am able to judge from the outline, compliant with the School Admissions Code.

Premises and Finance

20. The Council has reported that the two separate present school buildings have been well maintained, but 'are not suitable or sustainable', and that their site is restricted (although the junior school has access to a detached playing field to the rear of the infant school). My own observations were of solid buildings that are for the most part in a good state or repair,

although I accept the Council's warning about forthcoming difficulties in maintenance, particularly at the junior school. The junior school buildings are in two sections, with additional separate buildings between. Neither the infant nor junior buildings are ideal for modern primary teaching and learning, and I recognise the desirability of their being replaced. The Council has demonstrated that, at the junior school in particular, the classrooms are mostly of a lesser size than is recommended by the Government. The Council has identified £6.96m from its primary capital allocation for new buildings to be provided as part of the proposal for the new school. It has stated that it envisages the new school being built 'at the top of what is currently the playing field', with the 'old buildings . . . then [being] demolished and those areas converted into recreation space and possibly car parking space'. The Council has no current plans immediately to dispose of any land, and wishes to provide at least as much playing space as is currently available. Concern has been expressed to me about the sloping nature of the whole site, and also about the intention to include a driveway across the site to serve not only the school but a medical centre to be constructed on adjoining land. However, I have no reason to suppose that these are difficulties that could not be overcome in the design process, and the suitability of site issues (including matters of pedestrian safety) addressed within the planning process.

21. A number of local residents, as well as parents and others, have raised concerns about the implications of the proposals for loss of open space and for traffic congestion in the narrow approach to the site. I understand these concerns, but believe that the proper way for these issues to be addressed is through the planning process. If I am able to approve the proposal, I shall make my approval conditional upon planning permission being given for a new school building being given by 31st December 2011.

22. I am satisfied, on the basis of information given to me by the Council, that capital funding for the replacement building work, to the tune of £6.9m, is as secure as is possible.

23. There are likely to be overall savings in revenue costs from having a single primary school, which would be to the benefit of the education of children in the proposed school and across Medway as the saving is redistributed, as it must be, through the Dedicated Schools Budget. I have no reason to suppose that the modest overall reduction in budget for an amalgamated school would not be offset by savings in expenditure, or that the Council has been motivated by budget reduction as the prevailing reason for bringing forward its proposals. It is in any case the Council's duty to make such savings when possible, so as to benefit the Dedicated Schools Budget for the education of children in the proposed school and across Medway.

Staffing issues

24. The Council has stated an expectation that the governing body for the proposed school would ring-fence posts to existing staff in the present schools, and that the majority of staff would transfer to the new school. I agree with the Council that amalgamation would provide more opportunities than at present for working across the key stages and age groups, and I do not believe that the infant school's fear of losing staff would necessarily be

realised. Although change and uncertainty are unsettling for staff, I believe that a positive decision over amalgamation would enable most staff to feel secure in the knowledge that their skills would be required in the proposed school, and in the knowledge that it is unlikely that any headteacher would require staff to work with an age-group for which they were not prepared. The position of the present headteachers is different, in that the post of headteacher of the proposed school would have to be filled after national competition. This situation is, however, an inevitable by-product of amalgamations when two substantive headteachers are in post, and there would be a period of several years before the proposals are implemented in which this situation might be resolved.

Community Considerations

25. The Council's expectation is that the proposed school would continue the extended services provided by the present schools, including childcare, parenting support and links with other organisations.

Conclusion

26. I am satisfied on the basis of the evidence submitted to me that the processes of consultation were adequate, and that the Council's motives have been at least as much educational as financial. Although the governing bodies differ in their views of the proposals, the views of others too are divided, with some parents and staff supporting the proposals.

27. I believe that a single school will provide greater continuity, flexibility and economy than two schools, and that children would therefore benefit from the proposals. I am therefore approving the proposals. The Council has agreed with me in writing that the rebuilding project is integral to the amalgamation process, and my setting of a condition of my approval that planning permission be given by 31st December 2011 should allay anxieties as to whether amalgamation will be accompanied by the a new school building.

Determination

28. Under the powers conferred on me by Schedule 2 to the Education and Inspections Act 2006, I hereby approve the proposals to discontinue Luton Infant School and Luton Junior School, Chatham on 31st August 2014 and establish a new community primary school on 1st September 2014, conditional upon planning approval being obtained before 31st December 2011.

Dated: 8 June 2010

Signed:

Schools Adjudicator: Canon Richard Lindley