

Executive Decision Report

**Determination of Statutory Proposals – proposed
bringing together of Fosse Primary School and Slater
Primary School**

**Children, Young People and Schools Scrutiny
Commission**

3 July 2018

**Decision to be taken by: Deputy City Mayor for
Children & Young People’s Services**

Date of decision: 5 July 2018

Lead Director: Paul Tinsley

Useful information

- Ward(s) affected: Abbey and Fosse
- Report author: Rob Thomas, rob.thomas@leicester.gov.uk ext. 37 6203
- Report version number 2.2

1. Summary:

- 1.1. To seek a determination to statutory proposals to bring together Fosse Primary School and Slater Primary School. The proposal, if approved would form a larger five form entry Fosse Primary School and would formally close Slater Primary School.

2. Recommendations:

- 2.1. Children, Young People and Schools Scrutiny Commission is invited to consider this matter and to submit any comments to the Executive.
- 2.2. The Executive is recommended to review the information provided within this report and agree that the proposals as published be approved, namely;
 - i) that Fosse Primary School will enlarge its capacity from its current capacity of 420 to 1,050 pupils with effect from 01 September 2019
 - ii) that Slater Primary School will close with effect from 31 August 2019

1. Supporting information including options considered:

- 1.1. The Local Authority published a statutory notice and detailed proposals to enlarge Fosse Primary School's capacity and a related proposal to close Slater Primary School on 09 April 2018. A four week period of representation followed, during which two representations have been received.
 - i) A member of the public made a suggestion to incorporate Fosse and Slater school names together in the name for the new building. The respondent mentions that Slater Primary School has been open for many years, with different generations of families attending, and it would be sad not to have recognition. The working name for the new building is Waterside Primary School due to the vicinity to the Waterside regeneration scheme, but the governing body of Fosse Primary School as the expanding school will be responsible for deciding whether to change the name of the school. The Local Authority will pass on this respondent's suggestion to the governing body of

Fosse Primary School.

ii) Liz Kendall MP sent a letter of support as the member of parliament for Leicester West. The letter of support states that the new building will be a wonderful opportunity for the children of the Woodgate area. She mentions highways and traffic concerns – these issues have been considered as part of the planning application approval process and the scheme developed accordingly for construction of the new school building.

1.2. The role of the LA as decision maker

Decisions on school organisation are taken by the city council as the relevant Local Authority or by the schools adjudicator dependent on the decision required by 'The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and "The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013. As this proposal is for a change to an existing school and closure of a school, then in this instance, the decision falls to the city council and not the Schools Adjudicator.

1.3. Statutory Guidance - factors to be considered by the LA as decision maker in making changes to maintained schools and closing a maintained school.

Decision makers are required to have regard to guidance issued by the Secretary of State when they take a decision on proposals. The guidance documents are available at <https://www.gov.uk/government/publications/school-organisation-maintained-schools> The "Guidance for Decision-makers" sets out some the factors that decision-makers should consider when deciding a proposal. These factors are not exhaustive and the importance of each will vary depending on the type and circumstances of the proposal. All proposals must be considered on their individual merits.

The format of this report follows the framework of the guidance for this proposal. The text in italics at the start of each section contains extracts from the guidance to assist the Executive to understand the context. The text beneath the extracts in each section contains officer comment in relation to the factors.

1.4. Related proposals

Any proposal that is 'related' to another proposal must be considered together. A proposal should be regarded as 'related' if its implementation (or non-implementation) would prevent or undermine the effective implementation of another proposal. Decisions for 'related' proposals should be compatible.

Both proposals are related and are being considered together. The proposal for Fosse Primary to expand, and Slater Primary to close, with their displaced pupils being incorporated within the expanded Fosse Primary School.

1.5. Conditional approval

Decision-makers may give conditional approval for a proposal subject to certain prescribed events. The decision-maker must set a date by which the condition should be met but can modify the date if the proposer confirms, before the date expires, that the condition will be met later than originally thought.

There are no prescribed events related to this proposal that would require a conditional approval.

1.6. Publishing decisions

*All decisions (rejected and approved – with or without modifications) must give reasons for such a decision being made. **Within one week** of making a decision the decision-maker should arrange (via the proposer as necessary) for the decision and the reasons behind it to be published on the website where the original proposal was published.*

The decision will be communicated to all affected parties, and will be published on the website where the original proposals were published.

1.7. Consideration of consultation and representation period

*The decision-maker will need to be satisfied that the appropriate fair and open local consultation and/or representation period has been carried out and that the proposer has given full consideration to all the responses received. If the proposer has failed to meet the statutory requirements, a proposal may be deemed invalid and therefore should be rejected. The decision-maker must consider **ALL** the views submitted, including all support for, objections to and comments on the proposal.*

On 27 November 2017, the LA started a consultation process on the proposals to bring together Fosse Primary and Slater Primary Schools. The consultation period ran from 27 November 2017 – 28 January 2018. The consultation document was published on the council's consultation website and sent to interested parties. A number of meetings were held for staff, parents and members of the public.

Outcomes of the consultation period were considered by the Deputy City Mayor for Children and Young People's Services on 5 March 2018 and were included within the statutory proposal documentation.

On 9 April 2018 the Local Authority published statutory proposals to form a larger five form entry Fosse Primary School from 1 September 2019, and to close Slater Primary School from 31 August 2019.

A four week period of statutory representation followed, ending 6 May 2018.

The proposal was published on the city council's consultation website, and a statutory notice was published in the Leicester Mercury, placed on both schools' gates, and publicised within the e-bulletin sent to all Education

settings. Copies of the proposals were sent to:

- The Chair of Governors at both schools
- Parents and carers of both schools
- Local MP
- Ward Councillors
- Secretary of State, c/o School Organisation DfE
- Leicestershire County Council
- Church of England and Roman Catholic Diocese education representatives

During the period of representation, any person or organisation could submit comments on the proposals to the Local Authority. Two representations were received, as detailed above (section 3.1). Neither representations gave any negative comments regarding the proposed school organisation proposals.

1.8. Education standards and diversity of provision

Decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the needs of parents; raise local standards and narrow attainment gaps.

Both Fosse Primary and Slater Primary are rated good by Ofsted. Both schools have combined KS2 results above the Leicester average and in line with national averages.

Education standards are not part of the decision to close Slater Primary. Current standards at Fosse Primary give confidence that an expanded school will be able to provide high quality outcomes for its pupils.

1.9. A school-led system with every school an academy

The 2016 White Paper Education Excellence Everywhere, sets out the department's aim that by the end of 2020, all schools will be academies or in the process of becoming academies. The decision-maker should, therefore, take into account the extent to which the proposal is consistent with this policy.

The Government's policy on academies is not directly applicable to this proposal, as the proposal does not create a new school which is when the 'academy presumption' applies.

1.10. Demand v need

In assessing the demand for new school places the decision-maker should consider the evidence presented for any projected increase in pupil population (such as planned housing developments) and any new provision opening in the area (including free schools).

The decision-maker should take into account the quality and popularity of the schools in which spare capacity exists and evidence of parents' aspirations for a new school or for places in a school proposed for expansion. The existence of surplus capacity in neighbouring less popular schools should not in itself prevent the addition of new places.

Reducing surplus places is not a priority (unless running at very high levels). For parental choice to work effectively there may be some surplus capacity in the system as a whole. Competition from additional schools and places in the system will lead to pressure on existing schools to improve standards.

Leicester City's pupil population has increased over recent years. The primary sector has risen by over six thousand pupils in the past five years, and is expected to rise by a further two thousand pupils in the next five years

The additional demand for places in this area is as a result of the council led Waterside regeneration project. This includes up to 1200 additional homes in the next 5-10 years. These homes could lead to a demand for up to 300 primary places. Admissions forecasts show that the expansion will not have a negative impact on nearby schools.

1.11. School size

Decision-makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The decision-maker should also consider the impact on the LA's budget of the need to provide additional funding to a small school to compensate for its size.

The proposal will combine both schools' planned admission number and create an additional capacity of 469 places (67 pupils per year group) when full. The additional pupils will help support the viability and cost effectiveness of the school.

1.12. Proposed admission arrangements

In assessing demand the decision-maker should consider all expected admission applications, not only those from the area of the LA in which the school is situated. Before approving a proposal that is likely to affect admissions to the school the decision-maker should confirm that the admission arrangements of the school are compliant with the School Admissions Code. Although the decision-maker cannot modify proposed admission arrangements, the decision-maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

The city council recently carried out consultation on proposed admission arrangements for the 2019/20 academic year. The admissions consultation proposed that the new larger Fosse Primary School will start in September 2019 with an initial published admission number (PAN) of 120. The school will have additional capacity (30 places per year group) to support the additional pupils from the Waterside regeneration development project. Currently Slater Primary School has a PAN of 23 pupils in each year group and Fosse Primary School has a PAN of 60 in each year group.

In addition, it is proposed that the existing catchment areas for both schools will merge to form one new larger catchment area.

The admissions consultation stated that the above is subject to the outcome of the proposals to expand Fosse Primacy School and close Slater Primary School.

1.13. National curriculum

All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community.

The schools will follow the statutory framework for the Early Years Foundation Stage and the National Curriculum programmes of study in Years 1 to 6, with a strong focus on reading, writing and mathematics.

1.14. Equal opportunity issues

The decision-maker must have regard to the Public Sector Equality Duty (PSED) of LAs/governing bodies, which requires them to have 'due regard' to the need to:

- *eliminate discrimination;*
- *advance equality of opportunity; and*
- *foster good relations.*

The decision-maker should consider whether there are any sex, race or disability discrimination issues that arise from the changes being proposed, for example that where there is a proposed change to single sex provision in an area, there is equal access to single sex provision for the other sex to meet parental demand. Similarly there should be a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of the area, while ensuring that such opportunities are open to all.

The schools are fully committed to meeting all their statutory duties in respect of equality of opportunity, especially in respect of protected characteristics. In particular, the governing body advised that it is committed to meeting its public sector duties in respect of:

- eliminating discrimination, harassment and victimisation among pupils of all ages, irrespective of their backgrounds, and particularly where it is directed at pupils with protected characteristics.
- promoting equality of opportunity by meeting the needs of pupils where they are different from the needs of other pupils.
- fostering good relations between the full range of different groups represented in the school and the local community.

The schools are working together to combine their behaviour, equal opportunities, safeguarding and teaching and learning policies to ensure they properly reflect the ethos of both schools so that they can be applied appropriately.

The schools' main aim is to ensure that all pupils achieve highly, irrespective of their backgrounds or characteristics. The current approaches in all areas of school life will be extended to ensure that each pupil has the same opportunities to participate and experience as others.

1.15. Community cohesion

Schools have a key part to play in providing opportunities for young people from different backgrounds to learn with, from and about each other; by encouraging, through their teaching, an understanding of, and respect for, other cultures, faiths and communities. When considering a proposal, the decision-maker must consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different sections within the community.

The schools promote a set of values through which the pupils grow to be mature, reflective and contributing adults. Both schools are in close proximity and draw pupils from its local area and the pupil profile reflects the demographic of the area.

1.16. Travel and accessibility

Decision-makers should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.

The decision-maker should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes.

A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

The school proposed for expansion, as is the case at many schools in Leicester, already have a degree of traffic and congestion issues from the current school intake and the expansions will exacerbate the problems if no mitigating measures are taken.

To minimise the impact of the additional pupils transport assessments have been undertaken and were submitted as part of the planning application for the building work. Planning approval has assigned several conditions to improve the situation. The joint committee representing both schools are committed to developing a joint School Travel Plan as a means of focusing attention to the issues and to seek to bring about change in people's behaviour in delivering and collecting children.

An Accessibility Plan will be drawn up in compliance with current legislation and requirements as specified in Schedule 10, relating to Disability, of the Equality Act 2010. School Governors are accountable for ensuring the implementation, review and reporting on progress of the Accessibility Plan over a prescribed period.

The aim is to provide an accessible environment which values and includes all pupils, staff, parents/carers and visitors regardless of their education, physical, sensory, social, spiritual, emotional and cultural needs.

The plan will be updated annually and fully when the proposal is completed. The Accessibility Plan will contain relevant actions to:

- Improve access to the physical environment of the school, adding specialist facilities as necessary. This covers reasonable adjustments to the physical environment of the school and physical aids to access education.
- Increase access to the curriculum for pupils with a disability, expanding and making reasonable adjustments to the curriculum as necessary to ensure that pupils with a disability are as, equally, prepared for life as are the able bodied pupils;

1.17. Funding

*The decision-maker should be satisfied that any land, premises or necessary funding required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement. A proposal **cannot** be approved conditionally upon funding being made available.*

Where proposers are relying on the department as the source of capital funding, there can be no assumption that the approval of a proposal will trigger the release of capital funds from the department, unless the department has previously confirmed in writing that such resources will be available; nor can any allocation 'in principle' be increased. In such circumstances the proposal should be rejected, or consideration deferred until it is clear that the capital necessary to implement the proposal will be provided.

If these statutory proposals are approved it would require building work to be undertaken to provide a new school building. This would accommodate the existing pupils from both schools together with additional capacity for the Waterside regeneration area. The funding for the construction of the new school building would be subject to a separate report for Executive approval of capital funding.

1.18. School premises and playing fields

Under the School Premises Regulations all schools are required to provide suitable outdoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely.

Guidelines setting out suggested areas for pitches and games courts are in place although the department has been clear that these are non-statutory.

Government regulations and guidelines are considered in relation when undertaking the design work to accommodate the additional pupils.

The school facilities are considered against Building Bulletin 103. Full consideration is given to suitable outdoor and indoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely within the capital proposal as outlined above.

Both schools are currently on restricted sites with very limited outdoor opportunities. The new school building would provide enhanced outdoor provision, including an all-weather pitch.

1.19. Closure proposals (under s15 EIA 2006)

The decision-maker should be satisfied that there is sufficient capacity to accommodate displaced pupils in the area, taking into account the overall quality of provision, the likely supply and future demand for places. The decision-maker should consider the popularity with parents of the schools in which spare capacity exists and evidence of parents' aspirations for those schools.

The consultation and proposals documentation clearly stated that pupils displaced from Slater Primary would automatically transfer over to the expanded Fosse Primary School.

1.20. Schools to be replaced by a more successful/popular school

Such proposals should normally be approved, subject to evidence provided.

This is not applicable in this instance.

1.21. Schools causing concern

In determining proposals decision-makers must ensure that the guidance on schools causing concern (Intervening in falling, underperforming and coasting schools) has been followed where necessary.

This is not applicable in this instance.

1.22. Rural schools and the presumption against closure

There is a presumption against the closure of rural schools. This does not mean that a rural school will never close, but the case for closure should be strong and the proposal clearly in the best interests of educational provision in the area.

This is not applicable in this instance

1.23. Early years provision

In considering a proposal to close a school which currently includes early years provision, the decision-maker should consider whether the alternative provision will integrate pre-school education with childcare services and/or with other services for young children and their families; and should have particular regard to the views of the Early Years Development and Childcare Partnership.

The decision-maker should also consider whether the new, alternative/extended early year's provision will maintain or enhance the standard of educational provision for early years and flexibility of access for parents. Alternative provision could be with providers in the private, voluntary or independent sector.

Both existing schools have a nursery class which will continue. Neither schools

currently have a pre-school provision, A private and voluntary independent (PVI) nursery provision is proposed within the new split site vision to offer provision for eligible 2 year funded early education and 3 and 4 year old 30 hours extended entitlement places, as part of the blended model of delivery to complement the school's own nursery provision.

The pre-school provision will enhance the standard of education by supporting children to be school ready, aiding the transition to the school nursery and improved outcomes for children in the local area.

1.24. Nursery schools and the presumption against closure

There is a presumption against the closure of nursery schools. This does not mean that a nursery school will never close, but the case for closure should be strong.

This is not applicable to these proposals.

1.25. Balance of denominational provision

In deciding a proposal to close a school that has been designated with a religious character, decision-makers should consider the effect that this will have on the balance of denominational provision in the area.

This is not applicable to these proposals.

1.26. Community services

Some schools may be a focal point for family and community activity, providing extended services for a range of users, and its closure may have wider social consequences. The effect on families and the community should be considered when considering proposals about the closure of such schools. Where the school is providing access to extended services, provision should be made for the pupils and their families to access similar services through their new schools or other means.

Neither schools currently have high community use. The facilities within the new building will give opportunities for additional community use.

1.27. Decision making options

Decisions must be made within a period of two months of the end of the representation period. The representation period finished on 6 May, so a decision must be made by 6 July 2018.

When issuing a decision, the Decision Maker (LA) can decide to:

1. Reject the proposals;
2. approve the proposals;
3. approve the proposals with a modification (e.g. the implementation date);
or
4. approve the proposals subject to them meeting a specific condition

1.28. Conclusions

On the basis that there have been no negative representations to the statutory notice and detailed proposals, the commentary set out in this report, and statutory considerations, the Executive is invited to determine the proposals by approving the enlargement of Fosse Primary School with effect of 1 September 2019 and the related proposal to close Slater Primary School with effect from 31 August 2019.

2. Details of scrutiny

- 2.1. The statutory notice was published in the Leicester Mercury on 9 April 2018. Copies of the notice were also posted at the entrances to the schools.
- 2.2. Copies of the statutory notice and complete proposals were also sent to:
 - The Governing Body of both schools.
 - Parents and carers of pupils at both schools.
 - The Church of England Diocesan Board of Education (Leicester)
 - The Roman Catholic Diocesan Board (Nottingham)
 - Secretary of State for Education via School Organisation Unit
 - Member of Parliament for Leicester West
 - Leicestershire County Council, as the neighbouring Local Authority
- 2.3. In addition, the Local Authority published copies of the statutory notice and complete proposals on the consultation website page.
- 2.4. Children, Young People and Schools Scrutiny Commission were asked to comment during their 3 July meeting. This was their first meeting since the representation period ended on 6 May. The statutory process dictates that a decision must be made within 2 months, by 6 July. A copy of the minute extract of the Scrutiny Commission's meeting is attached at Appendix C.

3. Financial, legal and other implications

3.1. Financial implications

If this proposal goes ahead then subsequent reports will detail the capital and revenue implications. With regards para 3.17 above, if the proposal goes ahead funding will be made available as part of the Council's capital programme.

Simon Walton, Principal Accountant, Tel ext 37 4053

3.2. Legal implications

The procedural legal requirements for determining these statutory proposals have been met. The substantive legal requirements which the decision-maker must take into account are set out in sections 3.4 to 3.36 above. The decision-maker must also have active due regard to the Public Sector Equality Duty, referenced at section 3.14, section 5.3 and explored in the attached Equalities Impact Assessment.

Kamal Adatia, City Barrister & Head of Standards Contacts, Tel ext: 37 1401

3.3. Equalities implications

The proposal to bring together Fosse Primary School and Slater Primary School has the potential to have an impact on all protected characteristics across the following groups:

- Pupils (and their parents/carers) who require a primary school place in the area.
- Extant primary schools within the area, employees, and pupils (their parents/carers)

Schools Governing Bodies have a statutory responsibility to develop an Accessibility Plan for improving physical accessibility to the school and ensuring it is fit for purpose during and at the completion of the proposal.

Another consideration is ensuring that the council's inclusive design standards are a requirement for the school's design considerations to ensure that the resulting building provides maximum access to and throughout the building.

Creating additional spaces will help to meet the projected need for extra primary places for children from across all protected characteristics.

An EIA has been carried out by the project team, it has been informed by the responses to the consultation. It details any potential adverse impacts, and mitigating actions required to reduce or minimise these. It should be referred to throughout the project to ensure any mitigating actions detailed are carried out.

Surinder Singh, Equalities Officer, Tel ext. 37 4148

3.4. Climate change implications

The climate change implications will be considered as part of the new school building design stage.

Mark Jeffcote, Tel ext. 37 2251

4. Summary of appendices

Appendix A – full proposals

Appendix B - Equality Impact Assessment

Appendix C – Minute Extract of the Children, Young People and Schools Scrutiny Commission's meeting on 3 July 2018

Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

Is this a “key decision”?

Yes

If a key decision please explain reason

These linked School Organisation decisions are significant in terms of its effects on communities living or working in two or more wards in the City