

<b>Cabinet</b>  <b>29 January 2020</b>	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Debbie Jones, Corporate Director, Children's Services	<b>Classification:</b> Unrestricted
<b>Outcome of consultation on the proposed amalgamation of Smithy Street and Redlands Schools.</b>	

<b>Lead Member</b>	<b>Councillor Danny Hassell, Cabinet Member for Children, Schools and Young People</b>
<b>Originating Officer(s)</b>	Terry Bryan, Service Head (Pupil Services and School Sufficiency)
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	Yes
<b>Forward Plan Notice Published</b>	
<b>Reason for Key Decision</b>	To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
<b>Strategic Plan Priority / Outcome</b>	Children and young people are protected so they get the best start in life and can realise their potential

### **Executive Summary**

This report presents the outcomes of the preliminary stakeholder consultation (pre-statutory) relating to the proposal to establish a single three form entry primary school, through the amalgamation (merger) of Smithy Street and Redlands Primary schools from September 2020. The schools are also proposing that the new 3FE school will be called Stepney Park Primary School.

The report explains the background and reasons for the first stage of the consultation; the responses received with the views of parents, pupils, staff and the general public.

It also sets out the risk implications and how these will be managed through the various stages of the process.

### **RECOMMENDATIONS:**

It is recommended for the Mayor in Cabinet to:

- a) Consider the outcome of the pre-statutory consultation on the proposals to close Smithy Street Primary School with the displaced pupils being accommodated by Redlands Primary School as set out in Section 6 of the report; and
- b) Agree to proceed to commence a four week statutory consultation on the proposal to close Smithy Street Primary School with the displaced pupils

being accommodated by Redlands Primary School from September 2020.

## **1. REASONS FOR THE RECOMMENDATIONS**

- 1.1 There is significant concern over the long-term sustainability of primary schools in certain parts of the borough, in terms of their falling rolls and the resultant risk to their financial stability. The former is a result of demographic changes in the borough where the local demand for school places has fallen and is projected to remain broadly static until 2026/27 and possibly beyond. More detailed analysis on falling rolls in the local area can be found in the Annual Report on Planning for School Places, which was presented to cabinet on 30<sup>th</sup> October 2019 and can be viewed [here](#).
- 1.2 The Council has a duty of care to ensure children in its schools are able to receive a high quality education with access to a full curriculum. A school with a declining roll will be challenged to do this effectively because of inevitable financial pressures from reduced funding.
- 1.3 Smithy Street and Redlands Schools are in very close proximity to each other with the school sites divided by a single wall. Pupil numbers in both schools and at other schools in the Stepney Schools catchment area are currently falling. This means that Smithy Street and Redlands will not have sufficient reception numbers to fill four forms of entry from September 2020 and they are also starting to see vacancies in other year groups. As pupil numbers fall, this affects the schools budgets as they will get less money to educate their children, pay salaries and manage the upkeep of their buildings. Both schools already work closely together and engage in joint planning and these factors provided incentive for their governing bodies to consider becoming a single primary school.

## **2. ALTERNATIVE OPTIONS**

- 2.1 An alternative option would be for the schools to remain as separate institutions. However, this option would not resolve the underlying viability issues described in paragraphs 1.2 and 1.3 of this report.

## **3. DETAILS OF THE REPORT**

- 3.1 The purpose of the report is to inform the Mayor in Cabinet of the outcome of the first stage of the consultation process to amalgamate (merge) Smithy Street and Redlands Primary schools to form a single three form entry 3-11 primary school, from September 2020.
- 3.2 Following consideration of the outcome of the first stage of consultation, the Mayor in Cabinet is asked to consider whether he wishes to proceed to the next stage of the consultation, which is the 'statutory representation period'. This would involve the publication of a statutory notice. If agreed, the proposed publication date for the notice would be 3<sup>rd</sup> February 2020.

## **4. INTRODUCTION**

- 4.1 Earlier this year in the cabinet paper 'Annual Report on Planning for School Places' the Mayor was informed that the governing bodies of Smithy Street and Redlands schools' had undertaken an initial, informal, consultation with their communities on a proposal for the schools to amalgamate. It further informed that the outcome of the informal consultation would be reported to

the Mayor, in cabinet, for a decision to be taken in respect of publishing a statutory notice in respect of this proposal, if taken forward.

- 4.2 The main facts on the background to this decision, and current position of Smithy Street and Redlands Schools, are set out below, with the detailed information from the consultation paper (attached as Appendix 2).

## **5. BACKGROUND**

- 5.1 The Local Authority (LA) has been undertaking a review of its primary school places to identify long-term solutions that would reduce the significant number of surplus places in the west of the borough, whilst ensuring that schools remained financially sustainable and able to maintain high quality education.
- 5.2 The initial findings from the review identified that a number of schools were already facing significant reductions in their pupil roll and therefore financial challenges. The review included an independent consultant working with schools to develop proposals for organisational changes, based on a set of principles agreed with the stakeholder advisory group overseeing the review process.
- 5.3 The consultant's report on the first part of this process ('Future Ambitions') recommended a new model of school organisation based on 'educational communities'. Under this model, groups of neighbouring schools would work together to reduce the number of school places in their local area as well as optimise their resources and potential to deliver excellent education. It included schools exploring options, such as, amalgamation, hard federation and the possibility of relocation to new primary school sites planned for the pupil growth that is expected in the East of borough. The options also, reluctantly, included the LA and school leaders considering potential school closures, in cases where it was evident that the continuance of the school was no longer viable or financially sustainable and, where a decision to keep it open would have a negative impact on pupils' progress and attainment.
- 5.4 The process of the review was designed to enable school leaders to find their own solutions and work towards these with the support of the LA and the independent consultant. It has therefore provided better options to further develop partnerships and meaningful collaborations between schools, with the opportunity for genuine gains in shared learning and professional development as a result. The key involvement of the Tower Hamlets Education Partnership (THEP) to complement this approach supports the LA's ambitions as it continues to work towards a productive school system that has professional learning and improvement at its front and centre.

## **6. DETERMINING THE PROPOSAL FOR AMALGAMATION**

- 6.1 Both Redlands and Smithy Street Schools were identified as being 'in scope' of the primary review, given significant declines in their pupil rolls. The schools therefore decided to establish a Joint Steering Group (JSG) to consider the implications of the review and the opportunities for further collaboration to ensure their sustainability. The JSG consisted of the Chairs, Deputy Chairs of the Governing Bodies and Headteachers from both schools. It was supported by the Independent Consultant and an advisor from the THEP. The work of the JSG led to the development of the idea for a potential amalgamation. All

documents shared with governors, parents and other stakeholders as part of this process have been signed off by JSG, and agreed by the Local Authority.

6.2. An Informal Joint Governing Body meeting with Smithy Street and Redlands governors was held on 12th March 2019 to discuss the Primary Review, the Future Ambitions Report, and the best responses for the two schools. This Informal Meeting endorsed the work of the JSG and agreed to an Extraordinary Joint Meeting, followed by Individual Governing Body meetings on 10th June 2019, which would consider whether or not to move to informal consultation on a proposal to amalgamate the two schools.

6.3 The additional Smithy Street Governing Body meeting on 10th June, part of which was held jointly with the Redlands Governing Body, considered the preferred option of amalgamation presented by the JSG. At the meeting, the independent consultant presented the position for the two schools and the JSG's proposal. This was followed by a joint Q and A session. The two governing bodies then met separately to consider the proposals. Both Governing Bodies then agreed to consult, in the first half of the Autumn Term 2019 on whether, or not, the two schools should consider an amalgamation. This information was shared with parents and staff.

## **7. CONSULTATION**

7.1 During the Summer Term the Tower Hamlets "Family Matters" newsletter contained information on the Primary Review and at the end of the Summer Term the Council asked all schools to circulate a letter about the Primary Review to parents. Smithy Street and Redlands Schools both circulated the letter to parents.

7.2 A consultation document was prepared, and agreed with the Local Authority. This was given in paper copy to all parents, circulated to Tower Hamlets Headteachers, through the Headteacher's Bulletin; emailed to staffing unions, and the Secretary of State has been notified of potential changes. Information about the consultation was also placed on the schools websites and meetings were held for staff (30th September and 3rd October 2019) and parents (24th and 25th September 2019). Children were given the opportunity to discuss the proposal in Assemblies on 23rd and 30th September 2019.

7.3 The reports on the consultation feedback for each school are included as Appendix 3. The JSG agreed responses from the different forms of consultation should be summarised in these report for governors, and also organised a meeting on 21<sup>st</sup> November for a summary of the consultations to be reported to parents, with Senior LA officers, governors' representatives and the Headteachers available to answer questions. Although numbers attending were low, parents were re-assured to hear that any concerns that had been raised were being addressed. Those attending were supportive of the proposals, and helpfully raised any aspects which they felt may not yet have been addressed.

7.4 Appendix 3 provides an analysis of the consultation responses.

## **8. CURRENT POSITION**

8.1 Should the Mayor to agree for the Council to formally consult on the amalgamation of Smithy Street and Redlands Schools, the statutory process

to achieve this involves the ‘technical closure’ of Smithy Street School and the expansion of Redlands School to 3FE from the 31 August 2020 as follows:

Stage	Description	Timescale	Comments
1.	Publication of Statutory Notice	1 day	<p>Propose to publish statutory notice on 3<sup>rd</sup> February 2020.</p> <p>Publication of the statutory notice commences the statutory Representation Period.</p> <p>Within 1 week of date of publication, the Proposer must send a copy of the full proposal to the governing bodies, Secretary of State, the CofE and RC Dioceses, Council of Mosques and any other body or person that the Proposer considers appropriate.</p>
2.	Representation	Four weeks from date of publication of Statutory Notice	<p>Representation Period to end 2<sup>nd</sup> March 2020.</p> <p>Formal consultation of statutory and other stakeholders:</p> <ul style="list-style-type: none"> <li>- Governing Bodies</li> <li>- Parents of pupils at the schools</li> <li>- Teachers and staff at the schools</li> <li>- Any LA likely to be affected, including neighbouring authorities where there is significant cross border movement of pupils</li> <li>- Governing bodies, teachers and staff of any other school that might be affected, including any feeder schools and schools to which pupils may be dispersed (e.g. Oaklands)</li> <li>- Trades Unions</li> <li>- MPs for the constituencies of the school(s) that is subject to the proposal or whose constituents may be affected.</li> <li>- Any other interested organisation/person that the proposer considers appropriate.</li> <li>- During the Representation Period, any person or organisation can submit comments to the LA on the proposal to be taken into account by the Decision Maker. Any requests for a copy of the full Proposal must be sent out to the person requesting it within 1 week of receiving the request.</li> </ul>
3.	Decision	LA should decide within 2 months, otherwise it must be referred to the Schools Adjudicator	<p>Key Decision</p> <p>Formal report to Cabinet setting out summary of representations received and any responses made, risks and opportunities, officers recommendations and decisions available to Cabinet (approve without modification, approve with modifications, approve (with or without modification) subject to conditions as specified in the Establishment and Discontinuance Regulations, or reject)</p> <p>The timescales for publication of the Notice and</p>

			conclusion of the Representation Period will identify the 2 month decision making period. The decision is proposed to be taken at Cabinet on 25 <sup>th</sup> March 2020.
4.	Implementation	<p>No prescribed timescale however the date of implementation must be specified in the published notice, and is subject to any modifications imposed by the Decision Maker</p> <p>Consideration can be given in the Proposal for phased implementation plan for closure and impact upon pupils taking or due to take statutory examinations during the phases of implementation</p>	<p>It is proposed to implement the closure as follows:</p> <p><b>September 2020</b></p> <p>Smithy Street School is closed from 31st August 2020 and the displaced pupils will move to 'Redlands' School from the 1<sup>st</sup> September 2020.</p>
5.	Closure	Proposed closure date.	Smithy Street School officially closes on the 31 <sup>st</sup> August 2020.

- 8.2 It should be noted there will be no actual closure of school buildings. Once this process has been completed, children will continue to be educated in the existing school buildings but they will become one school. Although the capacity of the new school (3FE) will be less than the combined existing schools (4FE), neither building has sufficient accommodation to wholly meet the needs of a 3FE school so both buildings will still be required. However, it will allow the school to use some of the accommodation for curriculum activities that are not currently available for both schools. This also means there is the potential for the school to expand to 4FE should the demand for school places increase in the future. This is an anomalous position, arising from the unique configuration of two adjoining schools. As further school organisational changes are proposed consideration will be given to the potential for alternative use of any vacated buildings.
- 8.3 The expanded 'Redlands' School will retain its existing DfE registration, but to mark the start of the newly amalgamated school, the governors of both schools are proposing that when the new school opens in September 2020 it should have a new name, Stepney Park Primary School.
- 8.4 With regard to PFI, the proposal agreed with both existing Heads will involve removing the boundary wall/fence between the two schools to create one site. Although this does remove the 'red line' defining the extent of the existing Redlands site in the PFI contract, this can be achieved without any significant change to the PFI agreement, although a derogation to the contract to define the responsibilities will be needed ie. who maintains each play area, security, etc. The other works required are within each of the sites and will not affect the PFI agreement.

- 8.5 At this stage there is no expectation that there will be any increase in the PFI charge, but there will be legal costs for amending the current PFI agreement including the change to the school name.

## **9. EQUALITIES IMPLICATIONS**

- 9.1 The Equality Act 2010 requires public bodies to have due regard to eliminate discrimination, advance equality and to foster good relations.
- 9.2 The proposed representation period will involve a broad range of stakeholders and a thorough Equalities Impact Assessment (See Appendix 5) has been undertaken to ensure that equality and diversity issues are represented and considered to ensure the fair and equal treatment of pupils and staff in both Smithy Street and Redlands schools.

## **10. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 10.1 Both schools had substantial revenue surplus balances at the end of the 2018-19 financial year; Smithy Street's being £706k and Redlands' £632k. The three year financial projections agreed by the governing bodies at the start of the 2019-20 financial year projected in-year deficits for 2019-20 onwards under current arrangements. The year on year projections place both schools in financial difficulties by the end of the three year period.
- 10.2 The changes, if agreed, will take place after April 2020 and therefore each school will receive its own budget share for 2020-21. If Smithy Street closes in August 2020 its governing body will receive 5/12<sup>th</sup> of the budget share. The remainder of its share will pass to Stepney Park School. The transferred share will include the pro-rata value of the full lump sum (provisionally £135k). In 2021-22 transitional arrangements will apply that guarantee Stepney Park 85% of the former combined lump sums (lump sum plus £95k). No automatic transitional arrangements apply to 2022-23 but an application to extend arrangements for a further year can be made to the Secretary of State for Education.
- 10.3 Tower Hamlets' Scheme for Financing Schools sets out the arrangements for the balances of closing schools, in summary this states, in Section 4.8, that:
- When a school closes any balance (whether surplus or deficit) shall revert to the LA; it cannot be transferred as a balance to any other school, even where the school is a successor to the closing school.*
- However, the formal consultation document relating to school re-organisation may set out any arrangements for allocations to schools that have the effect of giving them the benefit of additional sums that are less than or equal to but not more than the balances of the relevant closing schools.*
- Any extra payments to a new school that is the successor to one or more schools that are closing may be abated in full or in part to no more than the extent the predecessor school or schools closed with a deficit balance.*
- 10.4 The three year budget plan submitted by the governing body of Smithy Street School indicates a surplus at closure of around £350k.
- 10.5 Any legal costs associated with the changes set out in Section 8.5 will be a charge to the General Fund.

## **11. COMMENTS OF LEGAL SERVICES**

- 11.1. Under section 15 of the Education and Inspections Act 2006 (“the 2006 Act”), a Local Authority can propose the closure of all categories of maintained school. The statutory process is set out in Part 4 of the 2006 Act. It is a detailed process that will require the publication of statutory proposals for the school’s closure. As well as the provisions in the 2006 Act, the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 must be followed and the LA must have regard to the statutory guidance – Opening and closing maintained schools (“the Guidance”)
- 11.2. The reasons for closing a maintained school include, but are not limited to, where the school is no longer considered viable, or there is no predicted demand for the school in the medium or long term, or it is to be “amalgamated” with another school. The report sets out relevant reasons.
- 11.3. The report recommends that following the pre-publication consultation which has been carried out, a decision is taken to publish a statutory notice and proposal (‘statutory publication’) for the closure of Smithy Street School. The pre-publication consultation has been carried out at a formative stage, when responses can be taken into account in the development or taking forward of the proposals and before taking the decision about whether to publish the statutory notice. Cabinet must take the outcome of the consultation conscientiously into account in taking a decision about whether to progress to statutory publication.
- 11.4. If a decision is taken to publish the statutory notice, the statutory representation period runs for 4 weeks from the date of publication. The draft notice at Appendix 1 complies with the statutory requirements. The statutory proposal should be published within 12 months of the initial consultation.
- 11.5. The LA can publish a proposal to close one school (Smithy Street) and enlarge or transfer site (following the statutory process) of an existing school (Redlands) to accommodate displaced pupils. The report includes consideration of proposals to expand Redlands School to make available places for the pupils by the potential closure of Smithy Street. The expansion is supported in principle by the Governing Body of both schools. The process detailed in the School Organisation (Prescribed Alteration Maintained Schools) Regulations 2013 must be followed for proposals including the expansion of a school, together with the associated guidance.
- 11.6. The report indicates that the proposed closure of Smithy Street and expansion of Redlands School are related proposals and this should be explained in the consultation and the publication of any subsequent statutory proposals.

### Employment considerations

- 11.7. The proposal for closure of the school may lead to the staff being made redundant. A dismissal for redundancy purposes is defined in section 139 of the Employment Rights Act 1996 and includes circumstances where an employee is dismissed for reasons wholly or mainly attributable to the fact that the employer has ceased or intends to cease to carry out the business for the purposes of which the employee was employed. By section 135 of the Employment Rights Act 1996 an employee is entitled to a redundancy

payment if the employer dismisses the employee by reason of redundancy. Separate consultation with staff regarding any school closure, redundancy situation or amalgamation will be required, if the proposals are taken forward. The school should follow its redundancy and redeployment process

- 11.8. The impact of TUPE provisions may need to be considered later depending upon the final proposals including decisions about amalgamation.

#### Equality considerations

- 11.9. When deciding whether or not to proceed with these decisions the Council must also have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristics and those who do not (the public sector equality duty). An Equality Analysis should be undertaken prior to a final decision being taken in respect of the proposals.

### **12. ONE TOWER HAMLETS CONSIDERATIONS**

- 12.1 The LA has to plan for the overall social infrastructure to meet the needs of its local population. This informs the development of the council's asset management and service planning to ensure that the necessary infrastructure is in place and that any competing issues are properly balanced.

### **13. BEST VALUE (BV) IMPLICATIONS**

- 13.1 This report confirms the benefits of amalgamation to the schools future financial viability, given that the schools budgets are based upon pupil numbers.

### **14. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 14.1 There is no sustainability or environmental implications arising out of this report. Any environmental and sustainability implications arising from the representation period will be duly considered.

### **15. RISK IMPLICATIONS**

- 15.1 Continuation of the consultation process will be carefully managed and evaluated in line with statutory guidance and taking account the views of consultees in order to minimise and mitigate risks.
- 15.2 It will be important to ensure an effective transition of pupils to minimise any impact. The Council is working with Smithy Street and Redlands schools to support them in mitigating this risk.
- 15.3 Any delay to a decision on the amalgamation is likely to further exacerbate the impact on the schools, their pupils and staff. The continuing decline in pupil numbers leads to greater financial challenges adversely affecting a school's staffing and its ability to deliver a full and balanced curriculum. The timetable and transition arrangements set out at Stage 5 in paragraph 8.1 is proposed to mitigate this risk.

## **16. CRIME AND DISORDER REDUCTION IMPLICATIONS**

16.1 There are no specific implications arising.

## **17. SAFEGUARDING IMPLICATIONS**

17.1 The report deals with the Council's approach to providing school places for the local population. The supply of school places contributes to the safeguarding of children by ensuring their early access to 'good quality' and sustainable education provision.

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### **Linked Reports, Appendices and Background Documents**

#### **Linked Report**

30<sup>th</sup> October Cabinet Report on Planning for School Places 2019 /20 - Review and Recommendations

#### **Appendices**

#### **Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012**

- Appendix 1 Public consultation paper, further information and response form
- Appendix 2 Reports on the feedback to the informal public consultation for each school,
- Appendix 3 A presentation on the analysis of the consultation responses
- Appendix 4 LA Pupil Projections 2018-2028
- Appendix 5 Equalities Assessment – Amalgamation of Smithy Street and Redlands

**Officer contact details for documents: N/A**