

<b>Cabinet</b>  25 March 2020	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Debbie Jones, Corporate Director, Children's Services	<b>Classification:</b> Unrestricted
<b>Report on the outcome of public representations received in response to the statutory proposal to amalgamate Smithy and Redlands Primary 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 Access and School Sufficiency)
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	Yes
<b>Forward Plan Notice Published</b>	21 February 2020
<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>	<b>Children and young people are protected so they get the best start in life and can realise their potential</b>

### **Executive Summary**

This report informs the Council of the outcome of the four week period of public representation in response to the statutory notice on the proposal for the amalgamation (merger) of Redlands and Smithy Street Primary Schools. This would create a single three form entry school and require the closure of Smithy Street School.

It recommends for the Mayor in Cabinet to consider a decision on whether or not to formally proceed with plans for the schools amalgamation that would take effect from the 1st September 2020. Smithy Street would therefore officially close on 31st August 2020.

## **Recommendations:**

The Mayor in Cabinet is recommended to:

1. Consider the report and supporting documentation, particularly the statutory notice at Appendix 2; the comments and objections raised by the two respondents at Appendix 3 and the Equalities Assessment at Appendix 4.
2. Agree to proceed with plans for the amalgamation (merger) of Redlands and Smithy Street Schools to take effect from the 1st September 2020 and meaning that Smithy Street would therefore officially close on 31st August 2020 and Redlands would expand to accommodate the displaced pupils from 31<sup>st</sup> August 2020.
3. Authorise the Corporate Director Children's to agree any such variations to the relevant PFI Agreements as are necessary to allow for the completion of the amalgamation

## **1 REASONS FOR THE DECISIONS**

- 1.1 The recommendation is made in order to determine the Council's response to the statutory notice on the proposal for the amalgamation of Smithy Street and Redlands Primary Schools.
- 1.2 The amalgamation would be achieved through the closure of Smithy Street School with all children able to attend the newly combined school at the site. Redlands School and Smithy Street Schools both currently have an intake of 2 forms of entry (60 children each). It is proposed for the combined school to be renamed Stepney Park Primary and it would have 3 forms of entry (90 children), reducing the intake across the two schools by 30 pupils.
- 1.3 The size of the new school would be a closer match to the current community needs and will bring together the resources and staff expertise across the two schools. There will be fewer surplus places and the Schools' financial resources can therefore be maximised.
- 1.4 The proposal to combine the schools has been put forward after the Local Authority (LA) and the schools governing bodies considered possible alternatives through the recent review of its primary school organisation. Given the lack of pupils applying and the increasing financial pressures facing both schools this proposal is the only option being presented to the Mayor in Cabinet
- 1.5 In line with the Department for Education guidance (November 2019) "Opening and Closing Maintained Schools" informal consultation has been undertaken, and statutory a notice inviting representation has been published.
- 1.6 This report provides feedback on the representations received following the publication of Statutory Notice on 5<sup>th</sup> February 2020.

## **2 ALTERNATIVE OPTIONS**

- 2.1 The Mayor could decide not to agree to the recommendation for the schools

amalgamation. In which case the schools would continue as separate institutions and seek to find alternative ways to deal with the future resourcing challenges that would be presented by a decline in their pupil numbers.

- 2.2 The Mayor could decide to delay his decision on the schools amalgamation. However, this would mean the amalgamation taking place later than the proposed date of August 2020, by which time both schools financial position would be less advantageous. Officers are concerned that it would be very difficult for both these schools to sustain a rounded education that meets their children's academic, social and emotional needs and, consequently, any delay would not be in the best interests of quality educational provision. Evidence from other projects shows that delaying change processes in schools is unsettling for children, staff and parents, and leads to schools facing rapidly falling roles and struggling to maintain morale and staffing.

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

- 3.1 The Council has a statutory duty to ensure that it provides sufficient school places. Decisions on how to achieve this are taken at local level, based on forecast pupil numbers across the planning areas (PAs) in a local authority. These PAs are groups of schools, often (but not exclusively) in a similar geographic area, reflecting patterns of provision. Department for Education 'School Place Planning Guidance (2018)':  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/789602/School\\_Place\\_Planning\\_2018\\_Technical\\_Guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789602/School_Place_Planning_2018_Technical_Guidance.pdf)
- 3.2 In Tower Hamlets the planning areas for primary schools are the same as the LA's primary school admission catchment areas. A summary of the pupil projections for the borough together with the Stepney Planning (catchment) Area are included as **Appendix 1**.
- 3.3 In order to fulfil its statutory responsibility the LA regularly reviews its provision, pupil forecast numbers and school applications and census data. This ensures that supply of school places remains appropriate to meet the level of demand and also that the LA is able to take steps to avoid too great a surplus in any particular area. Too many surplus places tie up scarce resources in under-utilised school premises or give rise to inefficient small classes or schools.
- 3.4 There has been significant and rapid demographic change in Tower Hamlets, which has led to a sudden fall in children applying for reception places in the West of the Borough, causing a high number of vacancies in some schools. The LA has taken a proactive approach to this developing trend, including conducting a Review of Primary School Places. Progress on the review has been regularly reported to Cabinet.
- 3.5 There has been a drop-in applications across all schools. Both Smithy Street and Redlands Schools have seen the number of reception applicants fall. In reviewing provision the school governing bodies and Local Authority consider that four forms of entry are no longer required across the two schools. Reducing either school to one form of entry would reduce its long term

financial security. The two schools work closely together and back on to each other, separated only by a boundary wall. Amalgamating the schools would significantly reduce costs and provide an enhanced site and premises for the children.

- 3.6 The amalgamation would draw on the strengths of both schools and closer working has already enhanced the curriculum offer for the school community. The Headteacher at Redlands School plans to retire in December 2020. The current financial position of both schools is relatively strong and any staff changes that there may be in September 2020 will be managed through natural wastage.
- 3.7 The proposed new admissions arrangements for the amalgamated school have been agreed with the existing school governing bodies. The main entrance to the school will be on the Smithy Street side, because the majority of children in the schools come from the South. An entrance for children will still be available from Redmans Road at the start and end of the school day.
- 3.8 During September and October 2019 an informal consultation was undertaken at both schools, and this has been used to highlight and address issues that need mitigation to support successful amalgamation. Parents' meetings and coffee mornings were held in both schools. Staff, children and parents have been invited to visit each other's schools. The consultation document and response analysis are available on both school websites.
- 3.9 The majority of parents and staff in both schools were in favour of the amalgamation. Some questions were raised and the schools have communicated regularly with parents, staff and children to address these.
- 3.10 Publication of the Statutory Notice

A report on the outcome of the informal consultation was presented to the Mayor in Cabinet on the 29<sup>th</sup> January 2020. The Mayor agreed to proceed to the next stage of the consultation, which would begin the four week 'statutory representation period' and require the publication of a statutory notice.

The statutory notice (**Appendix 2**) was published on the 5th February 2020. It was completed using the applicable Department for Education (DfE) prescribed alterations template and guidance. The proposal was not related to any other proposal. All statutory requirements were carried out regarding the consultation.

Notification of the publication of the statutory notice was advertised widely, in line with DfE guidance. The permanent proposal for the amalgamation of Smithy Street School and Redlands School through the closure of Smithy Street School and the expansion of Redlands School was posted publically outside the schools and on the schools and Council websites on the 5th February. It was also published in East London Advertiser Newspaper on the 20<sup>th</sup> February. All parents received a hard copy of the complete notice, and other stakeholders were signposted to the schools and Council websites.

### 3.11 Responses to the Statutory Notice

By the formal close of the statutory notice period, two written responses were received from persons who identified themselves as:

- Parent(s) of a Redlands pupil
- Local headteacher

The two responses can be viewed here:

[https://www.towerhamlets.gov.uk/ign/council\\_and\\_democracy/consultations/Proposal-to-merge-RedlandsandSmithyStreet.aspx](https://www.towerhamlets.gov.uk/ign/council_and_democracy/consultations/Proposal-to-merge-RedlandsandSmithyStreet.aspx)

One of the respondents was in favour of the schools amalgamation and one was opposed.

The responses to the proposal covered the following areas:

1. Reasons for Amalgamation – Headship and concerns over the Ofsted performance of Smithy Street School
2. Impact on the community – Extra Curricular and After School Provision and School Entrances

A summary analysis of the two responses, including feedback from school staff, is included at **Appendix 3**. The Council response is included in the analysis and presented here again as follows:

#### **Council response to representations following the Statutory Notice**

Both Redlands and Smithy Street Schools have not been able to fill reception places in recent years, leading to budgetary challenges. Neither school wishes to reduce by half a form of entry, or to become a one form entry school. The amalgamation will create a three form entry school, reducing the intake across the two schools by 30 pupils, a closer match to community needs. The amalgamation will bring together the resources and staff expertise across the two schools. There will be fewer vacancies in the school and financial resources will therefore be maximised.

The proposal will enable the two school communities to become a single community. During the course of consultations the current governors have agreed that the single unity community would be best recognised through changing the name of the newly amalgamated school to Stepney Park Primary School. The Temporary Governing Body and existing governing bodies will consider this name change following appropriate processes, if the amalgamation proposal is agreed.

In September 2019, Ofsted introduced a new inspection framework. Smithy Street was the first Tower Hamlets primary school to be inspected under this new framework and was judged to require improvement, having previously been an outstanding school. In fact, 97% of the previously outstanding primary schools inspected in London during the initial period of new framework were given a lower Ofsted rating. Smithy Street was among the 27% whose Ofsted rating was lowered to requiring improvement, despite having performed above both national and the local authority averages in the

combined measure (reading, writing and maths) for the past three years at the end of KS2. Smithy Street three year average is 76% compared to LA at 71% and national at 64%.

Since its Ofsted inspection Smithy Street has been working with the Tower Hamlets Education Partnership (THEP) to ensure that the areas identified for improvement are being addressed. The headteacher, and leaders in the school, have made rapid improvements where they were needed. The leaders and staff of both Smithy and Redlands schools are working together to plan for the best outcomes and to ensure that the quality of education will be good for all pupils. THEP and the LA have confidence in the headteacher at Smithy Street and her ability to lead the new school moving forward, ensuring high standards are maintained for all pupils.

The newly amalgamated school will enable greater opportunity for families to be provided with a range of extra-curricular / after school activities and ensure value for money. There is no plan at this stage for the cost of current activities to increase or for provision to be reduced. Nursery provision will continue to be offered, with places in line with becoming a three form entry school.

The admissions arrangements for the amalgamated school have been agreed with the existing school governing bodies. The main entrance to the school will be in Smithy Street, because the majority of children in the schools come from the South. However, an entrance will still be available for families wishing to enter from Redmans Road at the start and end of the school day.

This is a strong proposal that is recommended to be agreed by the Mayor Cabinet.

#### **4 EQUALITIES IMPLICATIONS**

- 4.1 When making decisions the Council must act reasonably and rationally. It must take into account all relevant information and disregard all irrelevant information and consult those affected, taking into account their views before final decisions are made. It must also comply with its legal duties, including relating to equalities.
- 4.2 The Equality Act 2010 requires the LA, when exercising its functions, to have due regard to eliminate discrimination, harassment, victimisation; advance equality of opportunity; and to foster good relations between persons who share a relevant protected characteristic and those who do not (“the Public Sector Equality Duty”).
- 4.3 An Equalities Assessment has been conducted by the LA and is attached at **Appendix 4**. It has been updated in view of the responses to the statutory notice and the representations. This must be considered in detail when the Cabinet considers the matters above, as part of its decision on whether the two schools should amalgamate.
- 4.4 Governors and the LA have considered carefully whether changes may affect particular groups disproportionately. They have worked with Trade Unions to ensure planning for any staff changes is in line with agreed policies and therefore fair and equitable.

- 4.5 The equalities assessment has found that there are no obvious equalities issues arising from this proposal, either for staff, parents or children.

## **5 OTHER STATUTORY IMPLICATIONS**

### (i) Managing the Impact of the Amalgamation on School Staff

The LA and School Governing Bodies are working together to support the schools staff through this change. A report on the planned HR Organisational change process and meetings already held with the staff and their unions as well as the support being provided is attached as **Appendix 5**. A formal staff consultation will only take place once the final decision has been made on the schools amalgamation. However, the financial position of both schools is strong and any staff changes for September 2020 will be managed through natural wastage.

### (ii) Best Value Implications

The Local Authority has a duty to ensure that governors are fulfilling their duties and that value for public money is achieved, whilst standards are maintained. They must ensure that admissions policies are equitable and fair, but also that schools do not fall into financial deficit so that they are unable to offer a quality education. With falling rolls meaning that there are nearly 600 surplus reception places across the Borough it is inevitable that some very difficult decisions will have to be made.

The proposal is an integral part of the Council's Primary School Review Strategy. It will support the quality of educational opportunity for the children, providing access to additional resources and space, and pooling the significant expertise across both schools.

The proposal does not have any significant mainstream revenue or capital implications for the Council. Minor capital investment will be needed to create a safe entrance and to remove the wall that separates the schools. When a school closes its finances (and any surplus or deficit) is returned to the LA. In the case of this amalgamation the Statutory Notice has made clear that any remaining balances from the closing school (Smithy Street) would be transferred to Redlands School on the last business day of its operation.

Closure of Smithy Street School will release the annual lump sum element (£135,428) for the school from the Delegated School's Budget, (at a sliding rate over 2 years). This money reduces the pressure on the DSG that is caused by having a large number of smaller schools, and provides better value for money across the school estate.

### (iii) Environmental (including air quality)

There are no environmental issues arising from this proposal.

### (iv) Risk Management

If these recommendations are agreed, continuation of the schools amalgamation process will be carefully managed and evaluated in line with statutory guidance and taking account the views of stakeholders in order to

reduce and mitigate risks. It will be particularly important to ensure an effective transition of pupils to minimise any impact. The LA is working with Smithy Street and Redlands schools to support them in mitigating this risk. The provision for children with Special Educational Needs will not be affected by this proposal

It is proposed to amalgamate the two schools from September 2020. Delaying change processes in schools is unsettling for children, staff and parents, and leads to schools facing rapidly falling roles and struggling to maintain morale and staffing.

The Redlands School site is part of the council's private financial initiatives (PFI) contract that was used previously to fund school-building projects. This contract will need to remain in place following the schools amalgamation, but it will not extend to the part of the site that is currently Smithy School. Further detail about the PFI arrangements and the modifications to be made to enable the sites to function as one School following amalgamation is provided as **Appendix 6**.

(v) Safeguarding

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

(vi) Data Protection / Privacy Impact Assessment.

The proposals presented in this report have followed a full public consultation. All responses received through these mechanisms or made directly to Council officers or members have been included in the analysis of the feedback received. These responses have only been used to assess the community's view of the proposals and not for any other purpose.

The Council will handle information in accordance with the Freedom of Information Act 2000 and the Data Protection Act 2018 and is the data controller for the purposes of the Data Protection Act 2018. For more information the privacy notice for Pupil Services can be accessed [here](#).

## **6 COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 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 5/12th 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 (£135,428).
- 6.2 In 2021-22 transitional arrangements will apply that guarantee Stepney Park 85% of the former combined lump sums (lump sum plus £94,800). 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.

- 6.3 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.*

- 6.4 The Statutory Proposal to amalgamate states that the Smithy Street financial balance will be transferred to the newly amalgamated school.
- 6.5 As Redlands is already in deficit its governing body will be required to apply for A Licensed Deficit Agreement.
- 6.6 The building modifications required to amalgamate the two schools are set out in Appendix 6 and need to be contained within the capital funding streams available for the development of the school estate.
- 6.7 Any legal costs associated with the changes to PFI arrangements will be a charge to the General Fund.
- 6.8 As the PFI charge to the Council is primarily based upon the square meterage of the school buildings, which is not changing, this will not increase.

## **7 COMMENTS OF LEGAL SERVICES**

- 7.1 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 and the statutory guidance – Opening and closing maintained schools, have been followed to enable a decision to be taken in respect of whether Smithy Street should close.
- 7.2 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.
- 7.3 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, together with the associated guidance, has been followed in respect of the proposal to expand Redlands.

- 7.4 The report recommends that, having taken into consideration all of the responses received during the statutory representation period and the Equality Analysis, the Mayor in Cabinet approves the proposal to close Smithy Street School, and to expand Redlands to accommodate the displaced pupils, with effect from the 31<sup>st</sup> August 2020. Cabinet must take the representations made conscientiously into account in taking a decision about whether to close the school.
- 7.5 Part 5 of the Guidance sets out the considerations that the Mayor in Cabinet must take into consideration when taking the decision as to whether Smithy Street should close. This must be taken within 2 months from the date of the end of the representation period to take a decision as to whether a school should close, otherwise the Schools Adjudicator will take this decision.
- 7.6 The Mayor in Cabinet must be satisfied that the statutory process has been properly followed. When issuing the decision, the Mayor 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 conditions (such as the granting of planning permission) being met.
- 7.7 Within one week of making a determination the Council must publish the decision in respect of the proposed closure and the reasons for that decision being made on the Council's website. The Council must arrange for notification of the decision and reasons to be sent to a number of named authorities and organisations.

#### Employment considerations

- 7.8 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
- 7.9 The impact of TUPE provisions may need to be considered later depending upon the final proposals including decisions about amalgamation.

## PFI Considerations

- 7.10 The Council is contractually committed to the PFI arrangements at Redlands. However, Smithy school is not a PFI site. Therefore, some amendment to the PFI agreement will be required such that either the facilities management services under the PFI agreement are provided to the whole amalgamated site or to none. In the event that it is none, alternative provision will need to be sourced and there may well be termination costs relating to the PFI FM services.
- 7.11 The works detailed in the necessary report appear to be relatively minor. However, the site is owned by the PFI financiers who have the right to determine who performs works on their site. Therefore, the PFI contractor (Tower Hamlets Schools Limited) will need to be engaged to perform any such works on the Redlands site.

## Equality considerations

- 7.12 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.

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

### **Linked Report**

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

### **Appendices**

- Appendix 1 LA Pupil Projections 2018-2028 (overall borough and Stepney catchment area)
- Appendix 2 Statutory Notice (issued on the 5<sup>th</sup> February 2020)
- Appendix 3 A summary analysis of the responses to the statutory notice
- Appendix 4 Equalities Assessment (updated following statutory notice responses)
- Appendix 5 Report on HR Organisational change process and support to be provided to school staff
- Appendix 6 PFI arrangements and the modifications to be made to enable the sites to function as one school following amalgamation
- Appendix 7 Summary analysis on the current financial position of both schools

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

- NONE

**Officer contact details for documents:**

N/A