

Executive - 14 June 2005

To be considered in Conjunction with Report OSB/10/2005

Call-in of Executive Decision – Review of Primary School Places in Torquay

Report of Chief Executive of Children's Services

- 1 The Overview and Scrutiny Board met on 1 June and decided to refer this matter to the Executive Committee. The purpose of this report is to respond to the observations made by the Overview & Scrutiny Board at its meeting of Wednesday 1st June.

The Board resolved that:

the decision of the Executive in relation to the review of primary school places in Torquay be referred back to the Executive for reconsideration and that the following concerns of the Board be noted:

- (i) The scope of the consultation was not wide enough in that a wider range of questions should have been asked of a wide range of people (in line with the Statutory Guidance for Decision Makers).
 - (ii) Insufficient information about each school was included in the consultation pack.
 - (iii) The model of consultation used failed to consider how the process could be open to manipulation by the various parties involved in the consultation.
 - (iv) Formal consideration by the Executive should have been given to the letter from the Diocese of Exeter dated 12th May 2005.
 - (v) The method of future consultations should be reviewed by the Overview and Scrutiny Board.
- 2 It is as well to note the Council's duty as Local Education Authority (LEA) to keep under review the supply of school places across its schools. This is in the interest of obtaining better value for money and avoiding distractive competition for pupils, among schools. It is one of the fundamental duties of an LEA and forms an important part of the inspection process.
- 3 The broad approach to the consultation process on primary places in Torquay follows the custom-and-practice of most, if not all, LEAs over the last twenty years. The compilation of the consultation paper laying out the purpose of the consultation; the provision of background information; several weeks being allowed for the process; the availability of officers to answer questions and hear views; and the pattern of meetings with all directly interested parties conform to the well-tested model of consultation over many years.
- 4 There is case law on the subject of consultation. Though not extensive, it offers clear guidance as to the basic requirements of consultation, in particular in the case of *R v Coventry City Council ex p Newborn* (1985).

“First consultation must be at a time when proposals are still at a formative stage. Second, that the proposers must give sufficient reasons for any proposal to permit of intelligent consideration and response. Third, adequate time must be given for consideration and fourth, that the product of consultation should be conscientiously taken into account in finalising any statutory proposals.”

- 5 It is markworthy that the Adjudicator has not found the Council’s consultation process wanting in relation to its investigations into primary school places in Brixham nor the establishment of a nursery at Shiphay Primary School.

Issues raised by the Overview and Scrutiny Board

- 6 Several issues were raised by members of the Overview and Scrutiny Board about the consultation process. Members might reflect that none of these was raised formally before during or after the consultation.
- 7 Much has been made of the apparent narrowness of the consultation process. Yet copies of the consultation paper were sent to: all Torbay Schools; the Church of England and Roman Catholic Diocesan Education Authority’s; Devon County Council; all Elected Members; the Early Years and Child Care Development Partnership; parents, Governors and staff of Upton St James’s school. It is important to remark the difference between the full-blown consultation that took place with Upton St James School and the annual consultation process that takes place over the Planned Admission Number (PAN) with all schools. Thus the PANs of Ellacombe, St Margaret’s and Watcombe Primary schools were dealt with under the usual annual procedure.
- 8 If this consultation is considered too narrow, then it is surprising that the response was so extensive. There can be few local consultations that have generated this level of information to aid the decision. Over 550 questionnaires were returned, a petition was submitted with over 500 signatures, a “survey of dissatisfaction” was submitted, there were over 20 letters, more than a dozen emails and there were three well attended meetings.
- 9 Considerable effort was put into the formulation of the substance for consultation and that involved the Diocesan Authorities, the Elected Members, Governors, Headteachers and Council officers. If the Council was to propose the closure of Upton St James School there would, of course, be a further opportunity for response to the Statutory Notices.
- 10 Any broadening and therefore lengthening of the present consultation process must be set against: the cost of such an exercise; the feasibility of consulting a wider range of people (such as the “prospective parents” suggested during the meeting of the Overview and Scrutiny Board); the prolongation of the uncertainty about the future of Upton St James’s Primary School; and the probability of different information that might result from a broader consultation process.
- 11 The view of the Diocesan Education Board for the Anglican Diocese of Exeter is attached. (Appendix 1) Although the consultation period ended on the 31 March this response was not received until 12 May, too late for inclusion with the papers circulated to members of the Executive for their

meeting on 17 May. A detailed response to the letter from the Diocesan Board has been prepared (Appendix 2).

- 12 Concern was expressed about the path taken by the consultation process, notably in relation to the involvement of Headteachers and their writing to parents. On the one hand this might, in itself, be seen as broadening the consultation process but on the other it was seen by some members of the Overview and Scrutiny Board as being unhelpful. Precedent shows that consultations take broad and often unpredictable paths, largely beyond the powers of the Council.
- 13 There was a view from one member that more financial information might have been provided in the consultation papers. Given the large number of variables controlling the funding of schools financial modelling would be difficult, but given the lump sum of £56,000 provided to all schools, then the fewer the number of schools then might be per capita funding. There are also obvious, if unpredictable, savings in relation to the heating, lighting, cleaning and maintenance of buildings if surplus places are taken out of use.
- 14 Finally there was great debate about the use of the questionnaire to the parents. Simply this was intended to give parents the opportunity to express their feelings in a straightforward manner, without their having to attend the public consultation meeting or to write a free-standing letter. It should be borne in mind that it was at no stage intended to be a ballot, but rather a broad indication of feelings. Moreover it simply reflected the view of the public meeting and did not give a different view.

Conclusion

- 16 Though much has been made of the nature of consultation on the future of Upton St James Primary school, the consultation process accords with precedent and whilst strong views have emerged none have varied from the fairly predictable view that people with a direct interest would like the school to remain open.
- 17 Perceived shortcomings of the process must be balanced against the cost of such an exercise, the extension of uncertainty about the future of Upton St James Primary school and the most unlikely prospect of different views emerging.

Tony Smith
Chief Executive of Children's Services

Appendix 1

UPTON ST JAMES CofE VC PRIMARY SCHOOL -

RESPONSE FROM EXETER DIOCESAN BOARD OF EDUCATION

INTRODUCTORY NOTE:

The following response to TLEA's formal Consultation Process regarding the proposed closure of the above school, is in the context of the Exeter Diocesan Board of Education's legal, and much valued, Partnership with the Local Authority in the national Maintained System of Education. Therefore, the following response, takes full cognisance of the challenges presented jointly to the LEA and the EDBE by the Surplus Places situation in Torbay; and the need for the issue effectively to be addressed. Accordingly, the Board's response to this single proposal, does not indicate a reluctance to collaborate in seeking an acceptable solutions to the Surplus Places issue. In seeking to provide a tutored response, full cognisance has been taken of the relevant DfES Statutory Guidance.

EVIDENCE BASE FOR CONSIDERATION OF PROPOSAL:

1. Formal consideration of TLEA's proposals via the appropriate, Statutory Diocesan Bodies:

- Board of Education Schools Committee
- The Diocesan Board of Education

2. Exploratory visits made to the school by:

- The Diocesan Director of Education
- Chairman of Diocesan Board of Education Schools Committee
- Diocesan Board of Education's SOC Representative

3. Conversations and meetings with the headteacher, deputy headteacher, representative staff and chairmen of governors

4. Formal representation by EDBE on TLEA's Schools Forum Working Party for the Review of Primary School Provision

5. Consideration of considerable correspondence and other input from a variety of concerned parties - mainly parents, governors, church members and other local residents - all supporting the retention of the school

6. The relevant DfES Statutory Guidance on the closure of Church Schools

THE DIOCESAN BOARD OF EDUCATION'S DECISION

After considering fully TLEA's proposal for the closure of Upton St James CofE VC Primary School in the context of Surplus Places in Torbay schools, the Exeter Diocesan Board of Education concludes that it would not be in the best interest of pupils or the local community of Upton, for this Church School to be closed.

The possibility of recommending a delay in the making of the final decision is considered as undesirable. It would be in the interests of neither the school

community nor the wider local community, for there to be a further protracted period of uncertainty regarding the school's long-term future. Such uncertainty would inevitably result in a further reduction of pupil numbers and associated staff redundancies: thus becoming instrumental in bringing about the school's closure – by default.

REASONS FOR EDBE's DECISION NOT TO SUPPORT CLOSURE:

Reference to the following three sections of the relevant statutory documentation indicate that, on balance of evidence, it is not possible for EDBE to support TLEA's proposal for the closure of Upton St James

i) Presumptions for closure (Section 2.2 "Decision Makers Guidance") The listed 'presumptions' do not equate with the situation which pertains at Upton St James.

ii) Denominational School Provision. "The Adjudicator should not approve proposals for the closure of a denominational school where the relevant Church SOC Group voted against its closure and it is clear that the closure, in conjunction with any related changes, will reduce the proportion of such denominational provision".

- The proposal to close Upton St James removes 210 school places, without commensurate provision of Church of England School places in other schools within Torbay.
- A reduction in Church School provision in Torbay proportionally reduces the level of Parental Preference

iii) Effect of Standards and contribution to school improvement - In the context of this guidance consideration has been given to whether the closure of Upton St James and the disbursement of pupils to other schools will improve:

- Standards
- Quality of education
- Range and/or diversity of educational provision in the area OR
- Standards of education in existing and proposed alternative provision be able to maintain or enhance the standards of education provision

Upton St James is the 9th best performing school at KS2 in Torbay and 3rd in Torquay - against Ellacombe (28th) and St Margaret's (22nd) . Accordingly, the argument that the proposal would contribute to raising standards and school improvement, is difficult to justify objectively

RESPONSE FROM PERSPECTIVE OF THE CHURCH OF ENGLAND'S MISSION IN EDUCATION:

- The CofE nationally and in the Diocese of Exeter, is committed to the support of schools, such as Upton St James, situated in communities with significant level of social deprivation
- The Ward in which the school is situated (Tormohun) is recognised by the European Parliament as an area of the most serious social deprivation in the

South West. 25% of pupils at the School have Special Education needs, i.e. above the national average.

- Upton St James is a well established Church School which has served the local community continuously since 1887. The view of the Diocesan Board of Education is that the school has a continuing role to play serving the local community in accordance with its Christian foundation.
- Currently, the Parochial Church Council of the Parish in which Upton St James School is situated, is seeking to appoint a Parish Priest for whom working with this school will be a priority. It is, therefore, anticipated that in the foreseeable future the school will become part
- of overall Parish strategy - within a developing mission community
- The closing of a CofE School which is achieving well, arguably contravenes the relevant Statutory DfES Guidance on the matter

RESPONSE TO CONDITIONALITY REPORT ON THE SCHOOL:

Whilst it is fully accepted that Upton St James School is accommodated in buildings which are far from ideal and, therefore, impose certain physical limitations on the life and work of the school, there is evidence that the school nevertheless:

- Comprises a cohesive, focused educational community, which is well-organised and well administered
- Aspires to secure appropriate quality educational outcomes for all its pupils
- Provides a happy and secure environment for its children
- Overall, provides a significant 'value added' element

As a means of potentially enhancing the overall built environment of the school and its delivery of the school curriculum, it is recommended that an appropriate reduction be made in the school's current PAN.

SUMMARY OF OVERALL CONSIDERATIONS:

- The EDBE's strategic responsibility and role - within a national framework - to secure and strengthen Church School provision
- Reduction of overall diversity of educational provision across Torbay.
- Upton is regarded by residents as comprising a 'village' community with its own identity and the school at its heart.
- Upton St James School is considered to give pupils an effective start to their lives in a nurturing, secure and supportive overall framework
- Despite being situated in a recognised area of social deprivation, the education outcomes achieved at the school are amongst the best in Torbay
- The closure of Upton St James (circa 200 places) would only marginally reduce the overall surplus places across Torbay, i.e. 1063 to 863, i.e. 13.4%
Consequently, the impact of the proposed closure on the overall problem is limited and, arguably, disproportionate to its potential negative impact on the Upton Community.

- OfSTED cites the School as 'improving with many good features' and overall teaching is deemed to be 'good'.
- KS 2 Test Results are, in certain aspects, better at Upton St James than at the schools to which it is proposed to transfer pupils.
- The teaching and learning paradigm and general ethos of the school, are widely regarded as responding appropriately and effectively to the needs of the community which it serves
- The Governing Body, the generality of parents and the wider community, consider the school to fulfil their expectations
- The undesirability of closing a well integrated school community with the resultant disruption - particularly for pupils - many of whom are socially deprived and in need of the support and security such a community provides
- Much of the current reduction in the N.O.R is attributable to the uncertainty engendered by the proposal for closure

Submitted to Torbay LEA by Dr R M Eade - Director of Education – on behalf of the Exeter Diocesan Board of Education

Appendix 2

Response of the Chief Executive for Children's Services to the comments of the Exeter Diocesan Board

Statutory Guidance

Section 2.2. describes situations where there is a clear presumption for or against closure. Upton does not fall into either category, so this simply means it is a case that requires the judgement of the School Organisation Committee and should be decided on its merits.

Supply of Denominational Places

In a Bay wide context, the changes to school places in totality increase the percentage of Church of England places from 19.3% to 19.6%. There is a de minimus reduction in Torquay from 26.9% to 24.8%.

Effect on Standards

Those engaged in strategic planning can be influenced only to a limited extent by current trends in school performance and popularity. Experience shows the picture can change quickly. Indeed, even if Upton remains open there will, in a few year's time, be a change in leadership and none of us can predict the school's future effectiveness. It can be argued that the suggested adjustment in the supply of places will help to create the pre-conditions for raising educational standards through efficient use of resources and through improvements to neighbouring schools operating alongside other schools already offering superior accommodation.

Effect on the Community

The Diocese is concerned that closure would have a disproportionate effect on the community of Upton. It is acknowledged that closure is indeed unlikely to have an impact on other communities such as Barton or Shiphay, but the pupil scatter maps show that the children from Upton "village" tend to spread themselves among a number of local schools. The fact is that Upton is not a village and neither is it an homogeneous community where children all attend the same school and that the school is the focus all community activity.

Marginal Effect on the Supply of Places

The closure of Upton would still leave the Council with a significant number of surplus places in Torquay, but the issue cannot be resolved in one fell swoop. It appears as if the Diocese is criticising the Council for not being radical enough, whilst opposing a sensible and manageable first step. The Council has never claimed that this would be an end to activity in school place management.

Effect on Social Deprivation

There is broad agreement that some of the communities in central Torquay are socially deprived and the improvement of this situation is a serious issue for the Council. Arguably, these communities would be better served through the concentration of scarce resources on improving a reduced but sufficient number of

schools, rather than spreading the resources by maintaining the same number of schools for sentimental reasons.

Management of Surplus Places through reduction in PAN at Upton

The Diocese suggests that the school should remain open and operate with a smaller Published Admission Number, which appears contradictory given its stance on the supply of Church of England places.

That aside the consequence would be that Upton would become Torbay's smallest school and the Key Stage One class size legislation would make internal organisation difficult. Certainly the Council would need to make some special arrangement through the funding formula to avoid mixed key stage teaching. Furthermore, in order to achieve a reduction in the number of places, the Council would have to take out of use, redesignate or demolish two teaching spaces (it is not sufficient to simply reduce the Planned Admission Number) and I cannot see how this can be easily achieved.

Tony Smith
Chief Executive for Children's Services