

## **DETERMINATION**

**Case reference: STP000576**

**Proposal: To discontinue Peacehaven Infant and Hoddern Junior Schools and establish a new community primary school**

**Proposer: East Sussex County Council**

**Date of Determination: 9 July 2012**

### **Determination**

**Under the powers conferred on me in paragraph 10 of Schedule 2 to the Education and Inspections Act 2006, I hereby approve the proposal to discontinue Peacehaven Infant and Hoddern Junior Schools with effect from 31 August 2012 and establish a new community primary school with effect from 1 September 2012 .**

### **The referral**

1. On 11 May 2012, the school place planning manager wrote to the Office of the Schools Adjudicator (OSA) on behalf of East Sussex County Council, the local authority, (the LA) applying for a decision on its proposal to close Peacehaven Infant (the Infant School) and Hoddern Junior (the Junior School) Schools and establish a new community primary school .

### **Jurisdiction**

2. On 8 November 2011 the LA Lead Member approved the publication of Statutory Notices to close Peacehaven Infant School and Hoddern Junior School on 31 August 2012, and to open a new community primary school on 1 September 2012 subject to approval being granted by the Secretary of State for Education under section 10 of the Education and Inspections Act 2006 (the Act).
3. The Council applied for section 10 approval on 6 December 2011. On 8 February 2012 the Department for Education contacted the LA to see if it wished to change its application because there had been legislation to amend section 10 of the Act from 1 February 2012. Consequently the LA withdrew its application under section 10 and published proposals instead under section 11(A3) of the Act as amended without the need for prior

approval from the Secretary of State. The Lead Member of the LA approved this action on 6 March 2012. On 16 March 2012, having carried out the appropriate consultation, the proposer formally published the proposal. The notice was in the form required by the Act.

4. I am satisfied that this proposal has been properly referred to me in accordance with Schedule 2 of the Act and that, therefore, I have jurisdiction to determine this matter.

### **Procedures**

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

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

- the proposer's initial referral letter of 11 May 2012;
  - prescribed information from the proposer as set out in the relevant School Organisation Regulations;
  - copies of objections received after publication of the proposals;
  - the proposer's response to the objections and comments received;
  - the views and information submitted by those objecting to the proposal;
  - the minutes and supporting papers of the LA meetings of: 16 November 2010; 8 June 2011; 8 November 2011; 16 November 2011; 6 March 2012;
  - maps of the area;
  - minutes of the temporary governing body meetings dated: 7 March 2012; 19 March 2012; 19 April 2012; 10 May 2012;
  - minutes of the Infant School governing body meetings dated: 18 November 2010; 10 February 2011; 19 May 2011; 10 June 2011; 14 July 2011; 22 September 2011
  - various data sets of pupils' attainment at both schools;
  - information about head teacher vacancies in the LA; and
  - other views and information from attendees at the public meeting held 12 June 2012.
6. On 12 June 2012 I visited the schools directly affected by the proposal, to view at first hand the accommodation and locality. At 3.30pm the same day I held a meeting at the Infant School attended by representatives of the Schools and the LA. At 6.30pm that same day I held a public meeting

at Telscomb Cliffs Primary School; approximately 100 people attended. I have considered information and the representations put to me at both meetings and subsequently. In addition I both walked and drove between the sites of the Infant and Junior Schools to form a view of the journey.

### **The Proposal**

7. The proposal is to discontinue Peacehaven Infant School and Hoddern Junior School with effect from 31 August 2012 and establish a new all-through community primary school with effect from 1 September 2012.

### **The Benefits identified by the proposer**

8. The proposer contends that the potential benefits of this proposal are:
  - to raise standards in the schools
  - to have one governing body and one head teacher securing a consistent ethos;
  - to avoid the transfer between separate infant and junior schools which helps to improve pupils' performance ;
  - to have a larger budget and staffing complement;
  - to be more administratively efficient;
  - to offer enhanced opportunities for career progression for staff;
  - to offer more attractive salaries for leadership posts; and
  - to gain a broader range of staff expertise.

### **The Objections**

9. Those objecting argue that:
  - the schools are too far apart to be considered as one school;
  - for children walking between schools there would be a loss of teaching time and it would be unsafe;
  - the Infant School is a good school and resources would be targeted towards the Junior School which is in need of support;
  - the position of head teacher at the Infant School would be attractive in terms of location and professional development;
  - it is the wish of the majority of parents that the Infant School remains a single entity to ensure its safe, nurturing environment continues;

- transition between schools is already good;
- there is limited scope to make economies; and
- Peacehaven already has two all-through primary schools so an option for parental choice would be removed.

### **Background to the Proposal**

10. On 16 November 2010 the LA agreed a policy for the planning of primary school organisation in East Sussex, based on:
  - The commitment of members to maintaining a sustainable network of village schools, where each school's viability and capacity to improve is robust.
  - The need to develop strategies to manage a shortfall in applications for primary headship vacancies, in order to secure high quality head teacher appointments and secure leadership solutions for all schools.
  - The need to address the differences in standards at the end of Key Stage 2 between all-through primary schools, compared with the lower standards in junior schools, in order to raise the standards achieved by pupils in junior schools.
11. As part of this policy, it was decided that wherever there is a head teacher vacancy in a small primary school or an infant or junior school the LA will discuss with the governing body of the school alternative models of leadership, management and school organisation.
12. The Infant School and the Junior School are neighbouring schools in Peacehaven. They are on separate sites. The view of the distance between them varies whether one is walking or driving, or indeed measured as the "crow flies" but is approximately 600 metres. Both schools were built with funding from a national scheme, the Private Finance Initiative (PFI) and are subject to the terms of the PFI contract dated 31 March 2000, made between the LA and Peacehaven Schools Ltd (PSL). PSL are responsible for operation of the Schools' sites and buildings until 2025. The Infant School site is 3,733sq metres and the Junior School 18,599sq metres.
13. The Infant School head teacher gave notice in the autumn term 2010 and left at the end of the Spring term 2011. In line with their policy, the LA asked the governing body not to seek to fill the vacancy for a head teacher while consideration was given to the future organisation of primary education in the area. The minutes of the governing body meeting 18 November 2010 show the governors decided to commence the recruitment of a head teacher and also to investigate further issues of collaboration and federation.
14. In January 2011, the LA advised the Infant School governors that they

could not proceed with the appointment of a head teacher and that they should consider all options for the future leadership of the school, this included amalgamation and federation.

15. The governing bodies of both Schools considered the options of alternative models of leadership, particularly hard federation and amalgamation. The minutes of the Infant School governing body meeting dated 10 February 2011 show that the governing body decided to proceed with the appointment of a head teacher. At the March meeting the governors were advised by the LA that three options were open to them;
- a) To seek to appoint a head teacher – if that was the decision then the LA might move to amalgamation;
  - b) To consult on forming a hard federation with the Junior School; it was likely that the head teacher of the Junior School would become the executive head teacher of the hard federation;
  - c) To amalgamate with the Junior school; this would involve the appointment of a new head teacher (the Junior School head teacher would be entitled to apply).

The minutes report option (b) as the preferred option of the LA, no decision is shown in these minutes.

16. Following reflection, the Infant School governing body wrote to the LA, letter dated 1 June 2011, that they supported neither hard federation nor amalgamation. The Junior School agreed to consult with its preference being for hard federation rather than amalgamation. (In a hard governance federation there is a single governing body for the schools but each school retains its own identity, an amalgamation is a joining together of two different schools to form one school ).
17. As the governing body of the Infant School declined to consult on hard federation, the LA decided on 8 June 2011 to proceed to consult on amalgamating the Schools. An acting head teacher, a deputy head teacher from another school, was appointed to the Infant School on 26 April 2011.
18. The consultation took place between 5 September and 17 October 2011. By the end of the consultation period 750 responses had been received. The results were
- 31 (4.1%) supported the proposal
  - 5 ((0.7%) neither agreed nor disagreed with the proposal
  - 714 (95.2%) disagreed with the proposal.
19. In addition the LA also received 475 identical but individually signed letters objecting to the proposal which arrived as a petition.
20. The LA, at its meeting of 8 November 2011, considered the results of the consultation and decided, despite the concerns raised, that best way

forward to ensure improved standards and quality of provision was to move to amalgamation.

21. On 8 November 2011 the LA Lead Member approved the move towards the publication of statutory notices to close the Infant School and the Junior School on 31 August 2012, and to open a new community primary school on 1 September 2012. Changes to the relevant legislation took place during this period so the LA withdrew its application under section 10 for approval from the Secretary of State to publish proposals and published proposals instead under section 11(A3). The Lead Member of the LA approved this action on 6 March 2012. On 16 March 2012, having carried out the appropriate consultation, the proposer formally published the proposal.
22. During the spring term 2012 the head teacher of the Junior School became unwell and resigned, leaving the school on 30 April 2012. An acting head teacher, an assistant head teacher from another school was appointed as was an executive head teacher. From 1 May 2012 neither school has had a substantive head teacher.
23. A temporary governing body of the proposed amalgamated school was formally constituted on 29 March 2012.

### **Consideration of Factors**

24. I have considered the proposal taking careful account both of the arguments put to me by the proposer and those who have objected and of the statutory guidance that applies when making such a decision.

### **Standards of Education**

25. The LA reports that the performance of junior schools in East Sussex is significantly below the performance of all-through primary schools. A significantly higher proportion of junior schools are subject to an Ofsted category of concern.
26. It reports further that both the Infant School and the Junior School achieved well below East Sussex and national averages in 2011, having also underachieved in 2010. The proposal to amalgamate these schools is based on the belief that an all-through primary school would make a major contribution to a sustainable strategy for raising standards. It draws attention to the analysis of the Infant School data which shows the percentage of pupils achieving level 2b or above was well below East Sussex and national averages in all subjects, particularly in Writing. The Infant School performed well below the East Sussex and national averages in pupils achieving level 3 or above in all subjects.
27. The Junior School Key Stage 2 data shows that the percentage of pupils achieving level 4 or above and the percentage of pupils achieving level 5 or above was well below East Sussex and national averages for all subject areas. The Junior School failed to reach the minimum levels designated by

the Department for Education (called floor targets) and was designated as below the floor standards for 2011 in that :

- 42% of pupils at the end of Key Stage 2 (KS2) achieved level 4 in English and Maths (floor standard 60%)
- 60% of pupils made expected progress in English (national median 87%)
- 53% of pupils at end of KS2 made expected progress in maths (national median 86%)

28. Information provided by both Schools shows improvement in the end of Key Stage results this year. The indicative ( that is, based on the Junior School's teachers' assessments of pupils' work) targets for Key Stage 2 provided to me show level 4 + predictions as

- Reading : 86%
- Writing 77%
- Maths 87%.

29. There are strong views expressed by the supporters of the Infant School that the LA is wrong to assume the education provision there needs improving. Attention is drawn to the outcome of the last Ofsted inspection in February 2010 which found the school to be 'good'.(2). The findings were:

- Overall effectiveness: 2
- Outcomes for pupils and groups of pupils: 2
- The school's capacity for sustained improvement: 2

Reference is made to the scores children achieved this year in the tests at the end of Key Stage 1 which they say have improved and show scores of level 2b or above as

- Reading 80%
- Writing 84%
- Maths 82%

30. When considering the results of comparatively small schools such as these I am mindful that the results of a few pupils can skew results to show improvement or decline at the end of year tests and the results of a number of years need to be considered. When viewing the achievement of pupils over time, which can be done using the official data held nationally ' Reporting and Analysis for Improvement through school Self Evaluation ' (RAISEonline) for Key Stage 1 2011, it shows the trend is down. It is possible from this data to see if pupils are making progress at a similar rate to other pupils in other schools and whether the difference, either positive or negative is significantly different. The LA reports on that data that there is,

- a declining trend from 2008 to 2011 in 'All subjects', Writing and Mathematics and
- from 2009 in Reading with Reading at a plateau between 2008 and

2009.

- This decline became a 'significant minus' for 'All subjects', Writing and Mathematics in 2010 and a 'significant' minus in 'All subjects', Reading, Writing and Mathematics in 2011.

31. Again, national data shows that children attending junior schools do not attain as well as pupils at all through schools. The end of Key Stage results at the Junior School show pupils are not making as good progress as they should.

32. I accept therefore that pupils of both schools could achieve more. I accept the difficulties of raising achievement in small schools identified by the LA. It is seeking to address this, in time of severe budget constraints, by following a route well supported by research and used by other local authorities.

#### Travel

33. The two schools are further apart than some split sites. The distance between the two schools is shown as 600 metres. After the public meeting on 12 June, I walked from the Infant School to the Junior School and back again. This took ten minutes and nine minutes respectively. Admittedly I was not walking with children, but having recently had surgery, I was walking with a stick so that is not an unreasonable estimation of the time for most people. This accords with the comments earlier in the day when a parent had spoken of the 10 minute walk between the schools. No solution to this potential difficulty of the distance between the Schools has been suggested by any party. The Junior School site is much larger than the Infant School site, 18559 / 3733 square metres. However, moving to a single site was not considered a viable option prior to the Schools being rebuilt nor is it in the short or medium term, because of the on going costs of the PFI contract.

34. There is already movement between the sites by children and staff, for example the Infant children use the Junior School swimming pool, and visit as preparation for transfer between Year 2 and Year 3. Staff travel between the Schools for liaison and shared professional development activities. There is no suggestion in any of the documents submitted that children would travel more between the sites as part of the day to day activities. The start and end times of the two schools differ to enable parents to collect and deliver their children to the different buildings. The issue seems rather that a single head teacher, while on one site, would not be available on the other.

35. One of my concerns arising from the consultation and my own visit and scrutiny of the evidence is that I think the distance and the route between the two schools to be an impediment - the physical difficulty of distance for staff who may need to work together travelling between sites, and for the head teacher needing to have a presence on two sites.

36. I do not consider this difficulty to be insurmountable, for example, in other schools in similar circumstances both parts of the school had a recognised leader who maintained the day-to-day management of the school and communication with parents.
37. As the two sites would continue to be used for the same number of children as at present, there are no issues of any changes in the area in relation to journeys to and from school at the beginning and end of the school day.

#### Finance

38. I have seen no evidence that this proposal has a financial motive. Indeed, that both schools are part of the PFI programme makes it extremely unlikely that thought might be given to a move to a single site. On my visit to the Schools I was impressed with the condition of the buildings which both have very good and comparatively new facilities. I share the objectors' views that budgetary savings will not be as easily made as in some amalgamations because the continued use of two sites will not make so many savings on overheads.

#### Need for Places

39. The proposal provides for an all-through primary school that would offer 30 full time equivalent nursery places for 3 and 4 year olds and 60 places (420 places in total) from Reception to Year 6. This would include all pupils from Peacehaven and Hoddern Junior School. No pupils would be displaced.
40. The LA maintains and reviews pupil projections, these projections demonstrate the need for the admission of number (60) to remain at this level. In Peacehaven as a whole the primary phase admission number is 200. Projections for the area suggest a continued need for 200 Reception Year places.
41. The only matter raised by objectors in relation to place numbers was a concern that the LA intended to raise the nursery numbers. The governing body minutes however, indicate this was a suggestion of the acting head teacher to meet demand by increasing the morning numbers to 30.
42. The LA is working with Lewes District Council to outline housing proposals until 2030. I am satisfied therefore that the proposal will not reduce the number of necessary places available nor result in over supply.

#### Views of Consultees and Need for Community Cohesion

43. The views of consultees are almost all against the proposed amalgamation. Parents of pupils at both schools and particularly at the Infant School value their schools highly and are anxious that the safe, nurturing environment should be continue to be provided. The Infant

School parents are anxious also that resources should not be targeted towards the Junior School which they perceive as needing more support. I have seen little evidence of reassurance or support given to parents at this time about how their children's needs would continue to be met in an amalgamated school and that leads to heightened anxiety.

44. I must consider the concerns of parents raised during the consultation. There is some implication in the documents sent to me that the objections were in some way orchestrated. I noticed a comment in the LA minutes that many of the objections were in a form of a template, I also noted elsewhere that there was a "fighting fund" set up at the Infant School so that parents could hand a letter into the school and have it stamped and posted. I have not seen anything to corroborate this. It is not simply the matter of numbers but the substance of objections that is important. Of these objections, I have considered those concerns which will arise from the amalgamation, those which are possible but will not necessarily follow and those which I think are unlikely.
45. I start with those concerns that I consider to be unlikely to be realized. I consider it unlikely that the two schools will move to one site, the Junior School, because of teaching space, cost and the PFI contract. Therefore concerns that children will find themselves in a "big" school, giving problems such as shared playgrounds and dining rooms, I shall set aside. Nor is there any suggestion that children will need to travel between sites any more frequently than they presently do. Parents should not think that their children will be any less safe than present.
46. Others of the parents' concerns of amalgamation should be met by the LA and temporary governing body. It is often day to day, operational matters that give parents anxiety and these should be addressed as soon as possible and in an open and transparent way.
47. It is a significant concern to parents that there should no loss of resources nor of a school leader from each site. During this period of uncertainty, parents are anxious that the education of their children will be adversely affected. There is however no evidence that the appointment of suitable head teachers to each of the schools would be likely and I must weigh up the risks to standards in the Schools of delaying while attempts were made.
48. The LA has identified community cohesion as a priority for the new school community. It indicates that collaborative work with other schools and colleges in the locality is an identified priority for the Local Partnership for Children. It suggests that organisation as one school gives better options for closer working and collaboration. The community are clearly concerned about this proposal, though the great majority of correspondence passed to me came from those associated with the Infant School; very little came from the Junior School.
49. There is distrust and suspicion between the parties, for example the

chair of the governing body of the Infant School was not allowed to join the temporary governing body and the vice chair of the new body resigned after one meeting. The reasons for this are disputed. Staff at the two Schools seemed to have misunderstood advice from the LA and believed they could not attend meetings I was holding. It is not clear from the papers submitted whether the Infant School governing body understood that an amalgamation proposal was likely to follow if they declined to consult on hard federation, nor how much support was given to persuade the Infant School of the value of a consultation on hard federation after their initial refusal. I note that the temporary governing body meeting minutes shows a request from the chair of Infant governors if it was possible to revisit that option.

50. Despite all of this I am convinced that all parties are seeking to act in the best interests of the Schools and the pupils now and in the future.
51. All the parents I met were caring, supporting of their children and driven by the wish for the best education for their own and the community's children. In addition, the facilities of both schools were impressive. This should then enable good progress to improvement in the future.

#### Special Educational Needs

52. I have looked at the specific special educational needs (SEN) provision at the sites. There is specific support for children in the area with complex speech and language difficulties. There is no evidence or expectation that this provision will be altered by the proposal.

#### Other

53. I have considered also whether the two sites might deter prospective head teachers from applying, as much of the LA's argument that amalgamation will lead to improvement is based on the recruitment of an appropriate new head teacher. Neither school has sought to make a permanent appointment of head teacher in the recent past and both schools are being led by assistant / deputy head teachers from other schools. Nationally, it is difficult to recruit head teachers to small schools of a single key stage, East Sussex is no different in this respect and reports there are presently 15 unfilled vacancies for headship, some of which have been advertised twice and some four times. Two head teachers would have to be sought and the publicity and the implied uncertainty of the future of the Schools would, I believe, be a deterrent in an already difficult situation. It is not easy to appoint head teachers to small primary schools; the question I pose then is would an aspiring head teacher apply to either the Infant or Junior School if she or he considered there was a risk of reorganisation if the other school headship remained vacant. I think this has made individual school headship appointments here very unlikely. I accept the view of the LA that the appointment of the head teacher is crucial to the improvement and development of the Schools.

## Conclusion

54. This is a particularly difficult decision. Amalgamation was not the first choice of any of the parties, in addition circumstances changed during the process. Initially, the Infant School had the head teacher vacancy. The Junior School and the LA favoured federation of the two schools, probably with the Junior School head teacher becoming executive head teacher of the federated schools. However, the LA could not compel the Infant School to consult on federation and then the Junior School head teacher departed also.
55. On the one side are the issues of school improvement closely linked to the need for the certainty of good quality school leadership of both schools. On the other side are the views of the majority of consultees, particularly about the distance between the schools. The Ofsted Report on school federations on which, in part, the LA relies to support its policy identifies two barriers to be overcome which are applicable in this case. They are:
- a. "those associated with the uncertainty about the impact of change
  - b. those that are related to the logistics of federation, such as finance, site management and geographical distance between schools".
56. My overwhelming concern is that neither school has a head teacher, the school community is very unsettled and pupils are not doing as well as they should.
57. It is this concern that leads me to my decision. If I were to refuse the proposal on what would I base my belief that both small schools could appoint a good head teacher, particularly as there has been this proposal. I consider it not in the best interests of pupils at both schools that their future is undecided. I think that the problem of distance between the schools, which is much more one for leadership and management of the school rather than day to day operation can be accommodated by appropriate arrangements for the deployment of senior staff; there is no substantive head teacher in either school at the moment so both governing bodies are accustomed to overseeing such arrangements.
58. My view is that the establishment of good leadership is crucial to the improvement and development of the Schools. I think it unlikely that two head teachers will be found for the Schools in the circumstances in which they find themselves.
59. I have considered delaying the implementation of the decision as the end of term is so close. However I think on going indecision will be unhelpful and with the strong support of parents, staff and governors at the both schools good progress will be made.

60. I have concluded that Peacehaven Infant and Hoddern Junior Schools should be discontinued and a new community Primary School established.

#### Determination

61. Under the powers conferred on me in paragraph 10 of Schedule 2 to the Education and Inspections Act 2006, I hereby approve the proposal to discontinue Peacehaven Infant and Hoddern Junior Schools with effect from 31 August 2012 and establish a new community primary school with effect from 1 September 2012.

Signed:

Schools Adjudicator: Jill Pullen

Dated: 9 July 2012