

Division(s): East Oxford, Cowley & Littlemore , Leys & Lye, Barton & Churchill, Headington & Marston and, Isis

CABINET – 2 NOVEMBER 2010

OXFORD SCHOOL – OUTCOME OF FORMAL STATUTORY CLOSURE CONSULTATION

Report by Director for Children, Young People & Families

Introduction

1. Cabinet agreed on the 10th August to the publication of a formal statutory notice advising the public of the proposed closure of Oxford School in order that it might be replaced by an academy. The statutory notice (attached as Annex 2) and statutory proposal (attached as Annex 3) were published on 6th September with a 6 week period allowed for representations which closed on the 18th October.

Summary of representations made.

2. The first representations were received on the 6th September and by the close of the statutory six week period on the 18th October a total of 13 had been received, of which 11 were objections. Representations by category of respondent and support or opposition to the proposal are summarised in the table below (correct as of 15th October. Any further responses will be reported orally to the meeting.)

Category of respondent	Number	%	Opposed to the proposal	Not opposed
Parent/carer of child at Oxford School	2	15	1	1
Parent/carer of child at another secondary school AND a child at primary school	1	8	1	0
Parent/carer of child at primary school	5	38	5	0
Parent/carer of child at primary school AND teacher/governor at another school	1	8	1	0
Teacher/headteacher/governor at Oxford School	2	15	2	0
Teacher/headteacher/governor at another school	1	8	1	0
Trade union	1	8	0	0
Total	13	100	11	1

3. The following concerns/issues were raised by respondents:
- Loss of parental/staff/community involvement in governance
 - Credibility and experience of sponsor
 - Role of local authority as co-sponsor
 - Education should be the local authority's responsibility
 - School already improving/successful
 - No (independent) evidence that academies improve standards
 - Academy status not necessary/useful in order to further improve
 - No significant additional resources are guaranteed
 - Inadequate consultation/short timescale
 - Proposal is politically motivated
 - Other options – federation - not sufficiently explored
 - Academies are poor value for money
 - Academy not wanted by local community/parents/staff/students
 - Negative impact on staff morale and recruitment; worse terms and conditions for staff
 - Will weaken collaboration between schools/tensions between schools
 - Concern about admissions policy
 - Reduction in choice as there is already an academy

The full comments made are attached as Annex 4.

Next steps

4. The outcome of Cabinet's consideration of representations made in respect of the proposed closure of Oxford School will be reported to the Department for Education (DfE). If Cabinet agrees to the closure of Oxford School then DfE officials will recommend to the Parliamentary Under-Secretary of State for Schools that a 'funding agreement' be signed. This is the legal contract between the DfE and the academy trust which sets out the conditions under which an academy is established (e.g. formal compliance with the admissions code of practice) and the level of funding that it will receive.
5. The new academy (proposed name Oxford Spires Academy) would open in the existing school buildings on 1st January 2011 with, it is expected, minor capital works (redecorating, new signage etc.) having been undertaken over the Christmas holiday period.

Financial and Staff Implications

6. The Council has agreed, inter alia, to indemnify the academy in respect of all employment costs relating to the period prior to the transfer from the existing school to the academy. It has also agreed to meet all severance, redundancy and associated redundancy costs associated with specified situations and to contribute 50% of such costs for all other situations. As the staff are legally the responsibility of the governing body of Oxford School as it is a foundation school, this means that we are taking on a liability that we would not otherwise have. However, the Department for Education *would have been unlikely to consider* this expression of interest without the Council entering into such obligations.

7. Under the Schools Standards and Framework Act 1998 (which applies to this academy project) the balances of a closing school will revert to the Local Authority Schools Budget. The school currently has a deficit budget plan and the LA is working with the school to ensure that this is minimised.
8. The running costs of the academy will be met from the General Annual Grant (GAG) which it will receive on an academic year basis, and is an amalgamation of the school's School Budget Share and Local Authority Central Spend Equivalent Grant (LACSEG). This latter amount is a per pupil figure to fund the academy for functions that the council currently provides centrally for its schools. It includes elements for Special Educational Needs, and some support services such as Home to School transport and Education Psychology Service.
9. The usual policy has been to try to meet any costs at a closing school from available balances of that school.
10. The impact of not paying School Standards Grants to Oxford School in the year the academy opens will affect the school's ability to maintain its deficit budget position; it will worsen the deficit position. Any balance at a closing school is inherited by the council and has to be dealt with from within Dedicated Schools Grant. A school closing may be inclined to spend up balances to avoid returning the monies to the council. Therefore, close monitoring of the school's budget is being undertaken.
11. The most significant financial impact is likely to be costs relating to staff that do not transfer to the academy and where the council will be expected to meet the termination costs. Longer term may include the financial impact on existing schools in the area, in particular if an increasing number of pupils are attracted to the academy. No redundancies have yet been confirmed and it is therefore not possible to quantify their potential costs.

Current financial position of Oxford School

12. Budget monitoring to period 6 (September) is forecasting a deficit of £170,604 at year-end (March 2011). However, the balance at 31 December 2010 is projected to be £231,700. This latter figure assumes that the school will receive only the relevant proportion of the academic year funding for the Moderate Learning Difficulties unit and National Challenge for the period September to December 2010.

Legal Implications

13. As this is a proposal to close a school it is subject to statutory procedures, as established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 (as amended by The School Organisation and Governance (Amendments)(England) Regulations 2007 which came into force on 21 January 2008).

14. Section 16 of the Education & Inspections Act 2006 establishes the consultation procedures for statutory proposals, and local authorities also have a duty to have regard to statutory guidance, in this particular case 'Closing a Mainstream School: A guide for Local Authorities' ("the Guidance").
15. The Cabinet should consider the views of all those affected by the proposals or who have an interest in them. This includes statutory objections and comments submitted during the representation period. These are summarised in paragraph 4, and contained in full in Annex 4. The Cabinet should not simply take account of the numbers of people expressing a particular view when considering representations made on the proposal. Instead the Cabinet should give the greatest weight to representations from those stakeholders most directly affected by the proposal.
16. The Cabinet must be satisfied that the consultation meets statutory requirements. If some parties submit objections on the basis that consultation was not adequate, the Cabinet may wish to take legal advice on the points raised. If the requirements have not been met, the Cabinet may judge the proposal to be invalid and should consider whether they can make a decision on the proposal. Alternatively the Cabinet may take into account the sufficiency and quality of the consultation as part of their overall judgement of the proposal as a whole.
17. Details of the consultation carried out prior to the publication of the notice are included in the proposal (Annex 3), and the results were summarised in the report to Cabinet 10 August 2010 (Annex 1). On 6th September 2010 the statutory notice (Annex 2) was published on the OCC website and in the Oxford Mail, and displayed at the entrances to Oxford School and in local libraries; the full proposal was sent to Oxford School's Interim Executive Board. As required by the statutory guidance, the full proposal was sent to the Church of England and Roman Catholic dioceses, the Young People's Learning Agency and the Secretary of State within a week of publication. The representation period lasted the statutory 6 weeks until 18th October 2010.
18. The statutory guidance on considering proposals for school closures contains the following factors, which should not be taken to be exhaustive:
 - (a) **The effect on standards, school improvement and diversity.** The government's stated aim is to create a dynamic system shaped by parents that delivers excellence and equality, closing weak schools and encouraging new providers and popular schools to expand. The Cabinet should be satisfied that the proposal will contribute to raising local standards of provision and attainment and consider the impact on choice and diversity. It should pay particular attention to the effect on groups that tend to under-perform including children from certain ethnic minorities, children from deprived background and children in care. These matters were considered in the Equalities Impact Assessment included as an appendix to the August 2010 Cabinet report. The Cabinet should also consider how the proposal will help deliver the 'Every Child Matters' principles.

- (b) **The need for places.** The Cabinet should be satisfied that there is sufficient capacity to accommodate displaced pupils in the area. As in this proposal Oxford School will be replaced by an Academy on the same site, pupils will not be displaced. The statutory guidance states that local authorities should take action to remove empty places at schools that are unpopular with parents and which do little to raise standards or improve choice.
- (c) **Impact on the community and travel.** In considering proposal for the closure of schools, the effect on families and the community should be considered. Community cohesion, race equality, accessibility and equal opportunities issues should be considered. As in this proposal Oxford School will be replaced by an Academy on the same site, there will be no negative effects on the local community.
- (d) **Specific age provision.** The Cabinet should consider the effect of the proposal on opportunities available to the 14-19 age group, including collaboration between local providers and employers. This proposal is intended to strengthen such collaboration by replacing Oxford School with an Academy in which Oxford and Cherwell Valley College will be a partner.
- (e) **Academies.** As an Academy is to replace an existing school, the proposal indicates that pupils currently attending the school will transfer to the Academy. As provision for pupils at a school proposed for closure is dependent on the establishment of an Academy, approval of the closure proposal should be conditional on the Secretary of State making an agreement for an Academy, but there should be a general presumption in favour of approval.

RECOMMENDATION

19. **The Cabinet is RECOMMENDED to:**

- (a) **consider the representations made in response to the statutory closure notice with particular reference to the legal issues detailed in paragraphs 15 and 18 ; and**
- (b) **determine whether or not to approve the closure of Oxford School with effect from midnight, 31st December 2010, subject to the Parliamentary Under-Secretary of State for Schools signing the funding agreement for the replacement academy.**

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Background papers: Nil

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