

DETERMINATION

Case reference: STP/595

Proposal: That the proposer be relieved of the duty to implement its earlier proposal to establish a new primary school in Cranbrook, Devon

Proposer: Devon County Council

Date of Determination: 21 August 2013

Determination

Under the powers conferred on me by the School Organisation (Transitional Provisions) (England) Regulations 2007, I hereby approve the proposal that Devon County Council be relieved of the duty to establish a new primary school in Cranbrook, Devon.

The referral

1. On 12 August 2013 Devon County Council (the council) wrote to the Office of the Schools Adjudicator (OSA) requesting approval of a proposal that the council should not proceed with the establishment of a new primary school (the school) in Cranbrook, pursuant to a decision published on 24 October 2007 and following statutory consultation.

Jurisdiction

2. The request was referred to me in accordance with transitional arrangements contained in the School Organisation (Transitional Provisions) (England) Regulations 2007 (the regulations) made under the Education and Inspections Act 2006.
3. On 27 June 2013 the council issued a public notice to be relieved of the duty to implement the statutory proposal on 1 September 2013. The notice was in the required form and contained the necessary information. The period of the submission of representations in response to the notice expired on 12 August 2013. The proposal was referred to the OSA within the time specified in the regulations. The OSA was advised that no submissions had been received.
4. I am satisfied that this proposal has been properly referred to me in and that I have jurisdiction to determine this matter.

Procedures

5. I have considered all the papers put before me including the following:-
- the original consultation documents published by the council in 2007 and accompanying background papers;
 - the adjudicator's determination of 24 October 2007;
 - the adjudicators' modifications of 26 July 2010 and April 2012;
 - the public notice of 27 June 2013, to revoke the statutory duty to implement the proposal of 21 May 2007; and
 - the request from the council to be relieved of the duty to implement the statutory proposal and subsequent modifications, dated 12 August 2013.

The Proposal

6. The proposal to establish the new school was made by the council with the support of the developers of a significant area of new housing, which would be served by the proposed school. The need for the school was based on the pupil number projections available at the time, based in part on the developer's estimate of the rate of construction of new homes.

7. The council previously applied to the OSA for a modification of the implementation date, once it became apparent that the housing anticipated by the council would not be built in accordance with the expected timescale. This was approved on 10 April 2012.

8. Recent developments have caused a reassessment both of the rate of building and of the availability of places in existing primary schools in the area. The council and the developer are now of the view that it would represent better value for money to apply the available resources to the expansion of existing schools.

9. There has been no objection to the proposal not to proceed with the new school.

Background

10. In a notice dated 21 May 2007 the council published a proposal to establish a new community primary school for 420 boys and girls aged 3 to 11 years from 1 September 2010. The notice was in the necessary form as required by section 28 of the School Standards and Framework Act 1998 (the Act). After the abolition of the School Organisation Committee the proposal was referred to the OSA to be determined.

11. The proposal arose from the anticipated need to provide a sufficient number of primary school places for children living on a new housing

development of 2,900 dwellings. The intention was for the school to serve the eastern side of the new community at Cranbrook. The consultation document stated that it might be difficult to forecast precisely the level of admissions during the first four years and that the growth of pupil numbers would be entirely dependent on the occupation of new housing in the area and subject to market conditions over the construction period.

12. The relevant statutory requirements had been met and there were no substantive objections. Under the transitional arrangements contained in the regulations made under section 31 of the Education and Inspections Act 2006, the Adjudicator approved the proposal on 24 October 2007.

13. In July 2010 the council requested a modification to the implementation date for the establishment of the school to September 2012 and this was approved by the Adjudicator on 26 July 2010.

14. Subsequently, another request was received in March 2012 for a further modification to the implementation date, from September 2012 to September 2013 and this was agreed by the Adjudicator on 10 April 2012.

Consideration of Factors and Conclusion

15. The referral was made to me in accordance with regulation 22 of the regulations, which state:

“Revocation of proposals

22. (1) Subject to paragraph (5), the adjudicator is satisfied that
(a) implementation of the proposals would be unreasonably difficult; or
(b) circumstances have so altered since approval was given that implementation would be inappropriate,
the adjudicator may determine that regulation 20(2) is to cease to apply to the proposals.”

16. The council issued a public notice on 27 June 2013 of its proposal to be relieved of the duty to implement the statutory proposal published on 21 May 2007. The notice explained that the duty to implement should not apply because six years have passed since the original consultation and housing development in the area has not generated the need for a new primary school. Also, during that period the new legislation has introduced an assumption that whenever possible a new school should be an academy school.

17. I have considered the case and the representation which has been made to me. I have concluded that the council is right to revise its plans in the light of the latest information on the rate of housing development and the overall current primary school capacity. I am satisfied that I should approve the council’s proposal that they be relieved of the duty to proceed with the new school.

Determination

18. Under the powers conferred on me by the School Organisation (Transitional Provisions) (England) Regulations 2007, I hereby approve the proposal that Devon County Council be relieved of the duty to establish a new primary school in Cranbrook.

Dated: 21 August 2013

Signed:

Schools Adjudicator: Mrs Carol Parsons