

## DETERMINATION

**Case reference:** STP/000556

**Proposals:** To establish a co-educational community secondary special school for 80 pupils aged 11-19 with severe and complex emotional, social and behavioural needs on land off Bowling Hall Road, Bradford on 2nd September 2013.

**Proposer:** Bradford Metropolitan District Council

**Date of Decision:** 19th August 2011

### **Determination**

**Under the powers conferred on me in paragraph 8 of Schedule 2 to the Education and Inspections Act 2006, I hereby approve the proposal with the condition that detailed planning permission is obtained by 31<sup>st</sup> December 2011.**

### **The referral**

1. On 29<sup>th</sup> July 2011, Bradford Metropolitan District Council ('the Council') wrote to the Office of the Schools Adjudicator referring to its own proposal made under sections 10 of the Education and Inspections Act 2006 ('the Act') for consideration under Schedule 2 to the Act. The proposal is to establish a co-educational community secondary special school ("the School") for 80 pupils aged 11-19 with severe and complex emotional, social and behavioural needs ("ESB") on land off Bowling Hall Road, Bradford on 2<sup>nd</sup> September 2013.

### **Jurisdiction**

2. The Council applied to the Secretary of State to publish its own proposal to establish the School without holding a competition. The Secretary of State granted consent in a letter dated 21st March 2011. The Council then published a public notice, in the form required by the Act, on 6<sup>th</sup> June 2011. During the six-week consultation period which ended on 18<sup>th</sup> July 2011 the Council received three representations. The Council forwarded the information specified in the regulations to the Office of the Schools Adjudicator with a letter dated 29<sup>th</sup> July 2011.

3. I am satisfied that these proposals have been properly referred to me and that I have jurisdiction to determine them in accordance with Schedule 2 to the Act and Regulations made thereunder.

## Context

4 The proposed School represents “*the final stage*” of the Council’s special school reorganisation which has involved the closure of twelve special schools and the establishment of six new generic special schools. The Council has been concerned about provision for pupils with severe and complex ESB for some time. In November 2005 an Ofsted inspection of the Council’s secondary pupil referral unit (“PRU”) concluded “*as a matter of urgency, the local authority should ensure pupils who have statements of special educational needs (“SEN”) for ESB are educated in an appropriate school setting.*” This finding led to the matter being considered by the local multi-agency Behaviour Strategy Group (“BSG”) who identified the need for an 80 place ESB secondary school to fill this acknowledged gap in provision.

5 Almost three years later, in September 2009, the Council’s Young People and Education Improvement Committee took the decision to start a consultation process about the establishment of such a school. This consultation duly took place between 9<sup>th</sup> November 2009 and 18<sup>th</sup> December 2009. The outcome of this process was considered by the Council’s Executive on 23<sup>rd</sup> February 2010 with the Executive deciding to proceed with the proposal, agreeing that Bowling Hill Road was the preferred site.

6 Because of a delay (caused by uncertainty about the future of the previous Government’s Building Schools for the Future initiative) in spring 2011 the Council took the decision to re-consult on the same proposal between 12<sup>th</sup> May and 27<sup>th</sup> May 2011. The results were summarised in a report to the Council’s strategic director for children’s services on 31<sup>st</sup> May 2011 who agreed the publication of Statutory Notices. The Notice was published on 6<sup>th</sup> June 2011 with the statutory consultation period ending on 18<sup>th</sup> July 2011. During this period three representations were made. There were no formal objections to the proposal.

7 At this time, there is no formal local provision for secondary school aged pupils with statements of SEN which refer to severe ESB. The first tier of provision is made at school level where, in April 2009, 51% of pupils with a statement for ESB were educated. Pupils with more severe needs are placed in a pupil referral unit (“PRU”), a generic special school or in out-of-district independent schools. DfE advice is clear. Pupils with severe ESB should not be placed long-term or permanently in a PRU if a special school is what they need, as is the case for the pupils who will attend the proposed School. The Council is facing increasing difficulty in securing high quality out-of-District places. These often require a residential placement outside of the pupil’s community and are very expensive.

8 The BSG which developed and supports this proposal is a well-established inter-agency group with representatives from an appropriate range of agencies, groups, services and interested parties. The BSG has ensured the proposal fits within the context of the local Children and Young People’s Plan 2010-13 and meets the guidance provided by DfE in “*Planning and Developing Special Educational Provision.*” The close involvement of the

BSG should help ensure that the relevant local services play an appropriate role in the development and operation of the new school.

### **Procedures**

9 As required by the Act, I have considered the proposals afresh and have had full regard to the guidance given by the Secretary of State. I have also had regard to all relevant legislation.

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

- prescribed information from the proposer as set out in the relevant Regulations;
- a letter from DfE dated 21st March 2011, in which the Secretary of State granted his consent to publish these proposals without a competition;
- information and supporting papers relating to meetings held during preliminary consultation leading up to publication of the proposal;
- the report of the Strategic Director for Children and Young People's Services to the Council's Executive meeting of 23<sup>rd</sup> February 2010;
- the report of the Director of Finance to the Council's Executive meeting of 22nd February 2011 and Council meeting on 24<sup>th</sup> February;
- the report to the Strategic Director for Children and Young People's Services of 31<sup>st</sup> May 2011;
- the Statutory Notice published on 6<sup>th</sup> June 2011;
- representations made during the statutory consultation period and the Council's response.

### **Consideration of Factors**

11 I have considered the relevant statutory guidance provided for Decision Makers by the Secretary of State.

### ***Standards and school improvement***

12 The evidence shows a clear gap in the Council's educational provision for pupils with severe ESB. Current arrangements are inadequate and have been for some years. For example, the Council state that the current range of key stage 3 provision "*does not provide access to the full curriculum*" and that

*“the provision made locally cannot meet the needs of those pupils with statements for more severe and complex ESB needs.”* When prior attainment in core subjects is measured, this group of pupils is found to be *“generally well below average.”* At GCSE, the average points score per pupil is between 30% and 50% of the Council average and fewer than half of pupils obtain GCSEs in English and maths. Almost all pupils are from disadvantaged socio-economic backgrounds with *“a significant number”* whose parents *“have low self-esteem and do not value education.”*

13 This School will contribute to raising standards by providing specialist provision, in a purpose built environment, for this group of pupils. The Council intends that all teaching staff appointed will all have the necessary experience and specialist expertise. The School will be designed to offer a personalised curriculum for each pupil. The site will allow the co-location of a range of relevant specialist resources and support services. This combination of a specialist school, expert staff, new and purpose built accommodation, and the on-site provision of specialist support services has the potential to ensure that the full needs of every child, as set out in the “Every Child Matters” principles, are met. I believe the School has the potential to make a substantial contribution to boosting the standards achieved by this group of pupils.

14 The School adds to the diversity of local provision available for pupils with ESB by adding a specialist special school option. The Council has made good attempts to engage with parents of pupils with ESB by sending details of the proposed new School to the homes of all pupils who have statements of ESB and by inviting parents to a parent specific consultative meeting. Despite these efforts, not one parent attended this meeting.

### ***Type of school***

15 The Secretary of State has granted the Council consent to publish proposals to establish a community special school without holding a competition. The Council sought this consent after gauging the level of interest of other bodies in establishing such a school. This involved placing advertisements in the Times Educational Supplement and inviting expressions of interest via the local consultation process. The Council concluded in early 2010 that *“no responses have been received to date that would indicate that a competition process would be of benefit to this proposal.”*

### ***School characteristics***

16 The School will offer 80 places for boys and girls aged 11-19. It is a specialist special school designed to cater for pupils with ESB from across the Council’s area. No such specialist provision currently exists in Bradford. Its size is well matched to local demand and for the needs of its pupils. All pupils will have a statement of SEN which describes their ESB needs. Pupils will be admitted to the School via the SEN statementing process in which parents are key partners. The School’s characteristics are entirely suitable for meeting the needs of the pupils it is designed to serve.

### ***Need for places***

17 The evidence about the suitability of the current arrangements for pupils with ESB shows clearly that there is a need for this School. The School is designed to cater for 80 pupils. During the consultative process, some respondees associated with other schools suggested that the School will have insufficient places to meet a growing need. In contrast the Council states “*the overall number of pupils with a statement of SEN for ESB has declined in recent years*” and have concluded that the number of places is sufficient. Whilst I have no reason not to believe that the Council’s assessment is accurate, the different perspectives of at least some schools and the Council indicates that the opening of the School might produce new pressure for places and that the Council will need to manage expectations about the level of needs of the pupils who will be admitted.

### ***Impact on community and travel***

18 The School will serve pupils from across the Council’s area. Most, if not all, pupils will travel to the School on dedicated transport funded by the Council. In some cases, pupils will be escorted. The proposed site has good road access to all parts of the Council’s area, although for the handful of potential pupils from Keighley, there will be longer journeys than are required by current provision. I am satisfied that accessibility issues have been properly taken into account.

19 The facilities of the new School will potentially offer better support for the community of parents whose children have ESB. The support services that will be on site are partly designed to offer families support so that they can more effectively integrate into their local communities. The pupil population will be multi-ethnic and multi-faith. The Council states that the new School will “*demonstrate understanding of other cultures and faiths*” and “*promote racial equality.*”

20 Wherever possible, the School will seek opportunities for its pupils to take part in educational and social activities with pupils from other schools.

21 Local residents have raised a range of concerns about the proposed site of the new School which I have considered at paragraphs 36-38 below.

### ***Specific age provision***

22 The School will serve pupils from 11-19. This will enable pupils to experience continuity in their learning and have access to an appropriate curriculum designed to meet their needs. It is likely to significantly improve the education of pupils in key stage 3 by addressing the weakness described in paragraph 12 above.

23 The Council believes the School will enable improvements to be made to the 14-19 curriculum experience of pupils with ESB needs. Personalised curriculum pathways will be designed for each pupil, using the School’s own facilities and those of other local providers where necessary and suitable. The Council recognises the particular challenges this group of pupils face when

moving from children's to adult's services. The Council believes that the specialist expertise available at the School will ensure that these transitional needs are better met than at present.

24 In an email dated 5<sup>th</sup> July 2011, the Young People's Learning Agency ("YPLA") stated that, in relation to the proposed post 16 provision at the new School, "*the YPLA is of the view that there is a shortage of suitable provision for this group of learners in the Bradford area.*"

25 The evidence suggests that the School will be well placed to improve the quality of 14-19 provision for pupils with ESB.

### ***Funding and land***

26 The freehold of the proposed site is held by the Council. At its meeting on 24<sup>th</sup> February 2011, the Council agreed that a sum of £10m would be made available to fund this project from its own capital resources. This is a sufficient resource.

27 Before choosing the proposed site the Council considered the suitability of 27 sites in its ownership against eight appropriate criteria. The Executive agreed the Bowling Hall Road site at its meeting on 23<sup>rd</sup> February 2010. It is a greenfield site already designated as being for educational purposes. The Council reports that Sport England have agreed to the arrangement the Council has made to replace the element of the site which is designated as a playing field. The Council granted outline planning permission for the School on 22<sup>nd</sup> September 2010. In doing so, the Council considered the assessment of the suitability of alternative sites and a local traffic and parking assessment. I am satisfied that the site is entirely suitable for the School.

28 The proposal does not yet have detailed planning permission. The Council has indicated that it should be able to obtain such permission by 31st December 2011. I have made this determination conditional on the receipt of detailed planning permission by this date.

### ***Special educational needs improvement test***

29 DfE guidance to decision makers sets out a range of matters which must be taken into account when considering a proposal for provision which is reserved for pupils with SEN, as is the School. The decision maker must only approve such a proposal when they believe that the evidence demonstrates that it is "*likely to lead to improvements in the standard, quality and/or range of educational provision for children with SEN.*" The Council has produced a written statement on how, in its opinion, the requirements of the SEN improvement test are met. I consider the specified matters below.

30 The proposal is designed to extend the range of provision for pupils with ESB by adding a special school option to the current options of mainstream school, PRU, generic special school and out-of-Bradford

independent school. Parents will be involved in the choice of their preferred option through the statementing process.

31 This proposal has been made within the context of the local Children and Young People's Plan

32 The proposal offers a wide range of educational benefits as described in paragraphs 13 to 14 and 22 to 25 above. The School will provide a purpose built learning environment for a suitable number of pupils. The transport arrangements are clear and appropriate and the capital resources are in place.

33 I believe that the proposal addresses the relevant criteria and that it is likely to result in improvements to local SEN provision.

### ***Views of interested parties***

34 The Council conducted a thorough and wide ranging consultation on these proposals with the findings of each phase being considered by the relevant decision makers. A dedicated web-site was established, publicity material was widely circulated, a press release was published in the local newspaper, and a series of meetings were held. The views of the full range of interested parties were sought, including pupils and parents. The evidence shows that the consultation exercise met statutory requirements.

35 There was widespread agreement on the need to improve provision for pupils with ESB from all groups of consultees. There was less agreement on the choice of site. Local secondary headteachers believed that the Council's policy of promoting inclusion for pupils with SEN could be better achieved if the School was co-located with a mainstream secondary school, with the Bradford Academy site being specifically named. This site was considered but it is not in Council ownership and the Council concluded that it could not justify the extra expense of purchasing the site when a suitable alternative was available. The Council also believes that inclusion can be achieved by other strategies associated with the personalised education plans of individual pupils.

36 Local residents had a series of objections to the choice of site. These included the proximity to residential properties; loss of an open green space; concerns about litter, traffic, petty crime and parking; and potential building difficulties. These issues were repeated in the three responses to the Statutory Notice.

37 The Council has responded to local residents concerns and representations by making the following points.

- (i) The site is only adjacent to housing on one side and that detailed site planning can address resident's concerns.
- (ii) The land is already designated for educational purposes.

- (iii) Sport England has agreed to the Council's plan to replace playing field provision.
- (iv) The site is across the road from the 27 hectare Bowling Pak which offers high quality open spaces.
- (v) A series of traffic and parking impact assessments have been carried out in the area in recent years and these were properly considered by the Council when outline planning permission was granted.
- (vi) The School site will be self-contained and staffed by ESB specialists who will have management responsibility for the behaviour of the pupils at the School.
- (vii) The Council believes the site is entirely suitable for building a school of this type and size.

38 I believe that the Council's response is persuasive and that steps can be taken by themselves and the new School's management to minimise any adverse impact of the School on the local community. Some of this can be achieved through the process of obtaining detailed planning permission.

### **Conclusion**

39 I have concluded that the arguments for these proposals are persuasive. They are set within the wider strategic framework of the Council's work. It is clear that current arrangements for secondary aged pupils with ESB in Bradford are inadequate and that the provision of a specialist special school, with expert staff, a purpose built learning environment, progression and continuity in learning, a personalised curriculum and on-site specialist support services has the potential to provide a significant boost to the standards achieved by this group of pupils, improve the quality of education provided, and better support the families of pupils who attend the School. The specialist on-site support services will also be better placed to support the transition from school to post school provision. The proposal meets the requirements of the SEN improvement test and is likely to result in improvements to local SEN provision.

40 The School will extend the range of types of provision for pupils with ESB. The capital resources are in place, the site is suitable and well located, and outline planning permission has been obtained. I am satisfied that local residents' concerns about the site can be addressed by the Council and, when in place, the management team of the School.

41 The School does not yet have detailed planning permission. To ensure that it can open on the target date of 2<sup>nd</sup> September 2013, I am making my approval conditional on the receipt of detailed planning permission by 31<sup>st</sup> December 2011.

## **Determination**

42 Under the powers conferred on me in paragraph 8 of Schedule 2 to the Education and Inspections Act 2006, I hereby approve the proposal with the condition that detailed planning permission is obtained by 31<sup>st</sup> December 2011.

Dated: 19th August 2011

Signed:

Schools Adjudicator: John Simpson