

DETERMINATION

Case reference: STP/000565

Proposal: To revoke the previous approval of proposals to amalgamate Luton Infant School and Luton Junior School, Chatham

Proposer: Medway Council

Date of decision: 14 December 2011

Determination

Under the powers conferred on me by Schedule 2 to the Education and Inspections Act 2006 and the Regulations made thereunder, namely The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007, I hereby revoke the approval given on 8th June 2010 of the proposals to discontinue Luton Infant School and Luton Junior School on 31st August 2014 and establish a new community primary school on 1st September 2014.

The referral

1. On 11th November, 2011, Medway Council (“the Council”) wrote to the Office of the Schools Adjudicator, requesting revocation of the previous approval by an adjudicator on 8th June 2010 of the Council’s proposals to discontinue Luton Infant School and Luton Junior School on 31st August 2014 and establish a new community primary school on 1st September 2014, which approval had been given conditionally upon planning approval being obtained before 31st December 2011.

Jurisdiction

2. The request has been referred to me as a result of consideration by the Council’s Cabinet on 6th September 2011 and its Children and Young Peoples Overview and Scrutiny Committee on 12th October 2011.

3. I am satisfied that I have jurisdiction to determine the proposal in accordance with the Education and Inspections Act and the Regulations made thereunder, namely The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007.

Procedures

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

5. I have considered all the papers put before me including:
- the Council's referral letter by email of 11th November 2011 and accompanying explanatory statement;
- a copy of the press notice of 19th September 2011 and list of those consulted about the proposed revocations;
- reports to the Council's cabinet of 6th September 2011 and to its Children and Young Peoples Overview and Scrutiny Committee of 12th October 2011;
- copies of the Council's letters to Luton Infant School and Luton Junior School consulting them about the proposed revocations; and
- responses sent to me from Luton Infant School and Luton Junior School.

The Proposal

6. The Council says that, as a result of reductions in capital allocations by the Government, it has been caused to reprioritise the capital works it had intended to carry out. The Council considers that the construction of a new school to replace Luton Infant School and Luton Junior School is no longer possible within these circumstances. Despite the assurance about the availability of capital funding the Council previously gave to the adjudicator considering the original proposals, the Council is now seeking revocation of the previous approval of its proposals to close the two existing schools and establish a new, replacement one.

7. The Council is clear in its application for revocation that it is applying on the grounds that, as a result of the non-availability of capital funding, the condition about planning approval being given before 31st December 2011 will not be met. In point of fact, at the time of applying for the revocations, the condition had not yet failed to be met, since the terminal date had not yet been reached. Furthermore, if the condition proved not to have been met by 31st December, the original approvals would automatically fail (even if planning approval had not been given simply because it had not been sought), without the need for intervention by the Adjudicator.

8. However, the Council has applied for the revocations. I am therefore considering them, not on the basis that the condition has not been met, but simply on the grounds that the Council wishes to be relieved of its duty to implement the approved proposals due to the lack of capital funding.

Views on the Proposals

9. Since Luton Infant School and Luton Junior School appeared not to have responded to the Council's consultation letters, I approached them directly for their views. The Infant School replied to indicate its governors opposed the original proposals and were therefore glad at the prospect of the approvals being revoked. The Junior School replied to say that its governors

were disappointed at the proposal that the original approvals should be revoked, both on grounds of the provision of a more suitable building and on grounds of improving educational continuity and progression, but that they respected the reason for the Council's decision.

10. The Council received only one response during or after the representations period following the publication of the notice of the revocation proposal. This expressed dismay at the cost of making the original proposals now that the Council no longer intend to implement them.

Consideration of Factors

11. The Council has reported a reduction of 60% over the next three years in the Government's allocations to local authorities for schools capital funding, representing a reduction for the Council of £2m for 2011-12 and each following year. The Council has argued that, since a significant reduction (from £5m in 2010-11 to less than £800,000 for 2011-12) in devolved capital funding to its schools is also occurring, a higher proportion of the Council's allocations than previously will need to be devoted to buildings maintenance issues that schools themselves might previously have funded. The Council has decided, therefore, on some reprioritisation of projects, with the provision of new buildings for a school to replace the Luton Infant and Junior Schools no longer being deemed possible.

Conclusion

12. For all the reasons that were given in the adjudication of 8th June 2011 in favour of amalgamating the Luton Infant and Junior Schools within new premises, I regret that it has now been necessary for the Council to apply for revocation of the approval of the original proposals. Nevertheless, I accept that the Council needs to reprioritise its projects in the light of much reduced financial capability. I am therefore revoking the previous approvals as the Council has requested.

Determination

13. Under the powers conferred on me by Schedule 2 to the Education and Inspections Act 2006 and the Regulations made thereunder, namely The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007, I hereby revoke the approval given on 8th June 2010 of the proposals to discontinue Luton Infant School and Luton Junior School on 31st August 2014 and establish a new community primary school on 1st September 2014.

Signed:

Schools Adjudicator: Canon Richard Lindley

Dated: 14 December 2011