



DETERMINATION

Case reference:	STP 623
Proposal:	A statutory proposal to extend the age range for Madani Boys' School and Madani Girls' school, Leicester
Proposer:	The governing body of the Madani Boys' School and the Madani Girls' School
Initial Decision Maker:	Leicester City Council
Appellant:	The Leicester Islamic Academy Trust on behalf of the schools' governing body
Date of Adjudicator's Determination:	20 November 2015

Determination

Under the powers conferred on me by the Education and Inspections Act 2006 and the Regulations made thereunder, I do not uphold this appeal against the decision to reject this proposal to extend the age range for Madani Boys' School and Madani Girls' School with effect from 1 September 2016.

The referral

1. On 17 August 2015 Leicester City Council, in its capacity as the local authority (the LA) wrote to the Office of the Schools Adjudicator (OSA) on behalf of the governing body of Madani Boys' School and Madani Girls' School (the schools), referring a decision that it, the LA, as decision maker, had made on 14 July 2015 to reject a proposal to extend the age range of these two schools from 11 - 16 to 4 - 16 years, from 1 September 2016
2. The Trustees of the Leicester Islamic Academy (LIA) on behalf of the governing body of the schools appealed against the decision on the grounds that the LA's decision does not explain why the capital proposal does not represent the best that can be achieved in terms of (i) a high quality teaching and learning environment or (ii) the availability of outdoor space for play and playing fields.

Jurisdiction

3. On 17 April 2015, having carried out a consultation as required for making a statutory proposal, the governing body formally published its proposal. The notice was in the form required by the Education and Inspections Act 2006 (the

Act).

4. On 14 July 2015 the Assistant City Mayor and Executive Lead Member for Education and Children's Services, acting on behalf of the LA, decided to reject the proposal. The school was informed of this decision on 15 July 2015.

5. The LIA Trust on behalf of the schools' governing body lodged an appeal on 11 August 2015 requesting that the rejection be referred to the adjudicator. I sought clarification about the relationship between the LIA Trust and the schools' governing body. I was informed that the LIA Trust was the promoter of the Madani School Federation when the voluntary aided co-educational school was built in 2007 and it continues to maintain oversight of the schools' governing body and appoints members to the governing body. The Madani School Federation has since become the Madani Girls' High School and the Madani Boys' High School. The two schools share the same building and share the same governing body and continue to work under the LIA Trust. The Trust submitted the appeal on behalf of the governing body. I am satisfied that this complies with paragraph 7(1)(c) in Schedule 3 of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the Regulations), that permits the trustees of a school to request referral of a proposal to the adjudicator.

6. The LA forwarded the appeal to the OSA, in accordance with the provisions of the Act and also the relevant Regulations.

7. I am satisfied that this appeal has been properly referred to me in accordance with the Act and the Regulations and that I have jurisdiction to determine this matter.

Procedures

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

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

- a. the report to the Leicester City Council Assistant Mayor and Executive Lead Member for Education and Children's Services on 14 July 2015;
- b. the statutory notice and prescribed information from the proposer as set out in the relevant regulations;
- c. the appeal from the LIA Trust on behalf of the schools' governing body;
- d. comments made by the LA in response to the appeal;
- e. the Ofsted inspection reports for the schools; and
- f. further correspondence and information submitted by the schools and the LA.

10. On 29 October 2015 I visited the schools to view at first hand the schools and their locality. I held a meeting with representatives of the schools and the LA. I have considered all the information and representations put to me at this meeting and subsequently.

The Proposal

11. The proposal is that the Madani Girls' School and the Madani Boys' School extend their age range from 11-16 to 4 – 16 from 1 September 2016. Each school currently has 300 pupils in the 11 – 16 age range. The proposal would be to offer 60 boys and 60 girls places in Year R in 2016 and to grow the schools year by year until by 2021 the schools would have children in every year group. At that point the schools would cease to have an admission point at Year 7 and each would have become a two form entry all through school from 4 – 16.

12. In order to accommodate the additional 840 places required, the proposal was to purchase a vacant factory building neighbouring the school and convert it into classrooms. The proposal anticipated that the LA would fund the significant capital required for this conversion from its "basic need" budget.

Background and Context

13. The schools are voluntary aided Islamic faith schools in the Leicester City Council area. The Madani High School was a new build in 2007. The building was designed such that it provided separate education for 300 boys and 300 girls aged 11 – 16. Madani Boys' School and Madani Girls' School were established as single sex schools in September 2012 to provide single sex secondary education within the legal framework of school admissions. The two schools operate within the same building and share resources.

14. The schools argue that there is a need for more primary age places in the Leicester City area. The school would like to extend its age range so that it can offer primary age places in a faith school and give children the opportunity for an all through education without having to change school at age 11.

Consideration of Factors

15. I must take into account the provisions of the Act, the Regulations and the DfE Guidance "School Organisation – Guidance for proposers and decision-makers" (the guidance) published in January 2014 that apply to this case. The guidance sets out the matters that decision makers must take into account when making a decision about a proposal to make a prescribed alteration to a school. I have considered the statutory process and the proposal to change the age range of the schools afresh taking careful account of the arguments put to me by the LA and the schools.

16. I began by considering the factors that the guidance requires decision makers to take into account, these are grouped under the following headings:

- the consultation and representation period;
- education standards and diversity of provision;
- the need for places;
- school size;
- equal opportunity issues;

- community cohesion;
- travel and accessibility;
- capital;
- school premises and playing fields

Against each of these headings I have considered the schools' case for the extension of the age range, the comments from the LA and any other relevant information that will help inform my decision making.

The statutory process, consultation and the representation period

17. The schools have clearly set out their process and how they followed the guidance in drawing up the consultation and in discussing its proposal. The consultation ran from 2 March 2015 until 3 April 2015. A consultation discussion took place with staff of the Leicester Islamic Academy on 11 March and with the staff of the Madani Schools Federation on 17 March. A public meeting took place on 17 March 2015. A small number of points were raised at these meetings. These points were in support of the proposed changes. In addition, staff raised some points about employment related matters. The consultation document was sent to parents, other local schools, local places of worship, city councillors and the LA.

18. The responses from the consultation were discussed by the governing body when it met on 14 April 2015. It decided at that meeting to publish a statutory proposal and did this on 17 April 2015. This proposal was to lower the age range of the schools from 11 – 16 to 4 – 16 from 1 September 2016. The notice was published in the Leicester Mercury and placed on the gate at the entrance to the schools and in the reception area. The proposal was also sent to the LA, all primary and secondary schools in Leicester, the local Member of Parliament and the federation of Muslim Organisations in Leicestershire and Association of Muslim Schools. A four week period of representation followed. No representations were received during this period.

19. I am satisfied that the schools have followed the guidance in respect of the statutory process including the consultation and publication of the statutory notice.

Education standards and diversity of provision

20. The guidance requires decision makers to consider *“the quality and diversity of schools in the relevant area and whether the proposal will meet the aspirations of parents, raise local standards and narrow attainment gaps.”*

21. Students at Madani Boys' School and Madani Girls' School make better than average progress when compared with pupils nationally. The value added score between Key Stage 2 results and Key Stage 4 results is 1027 for the Boys' School and 1051 for the Girls' School, the national figure is 1000. Attainment at Key Stage 4 in both schools is above the national average with 71 per cent at the Boys' School achieving 5 or more A* - C grades at GCSE in 2014 and at the Girls' School the equivalent figure was 68 per cent, the national figure was 55 per

cent. The schools are Islamic faith schools and there is no state funded provision for children of primary school age in an Islamic faith school in Leicester. There is provision in an independent school. The 2011 census data show faiths within Leicester as follows:

Sikh	4.4%
Hindu	15.2%
Muslim	18.6%
Christian	32.4%

The provision of a Muslim primary school would meet the aspirations of Muslim parents in the local community and an all through school would provide continuity for children.

Demand for places

22. The LA has supplied projections for pupil numbers in the LA. At the meeting held at the school LA representatives said that pupil numbers had been increasing, but are now showing that they may have peaked. The table below was provided by the LA following the meeting and shows the Leicester city pupil number projections, the figures are subject to amendment as they have yet to be verified and published. The LA does not anticipate significant amendments will be required.

	R	1	2	3	4	5	6	7	8	9	10	11
2014/15	4473	4488	4482	4355	4190	4057	3892	3329	3374	3262	3381	3362
2015/16	4679	4621	4603	4563	4446	4280	4086	3556	3448	3518	3370	3423
2016/17	4540	4832	4721	4686	4648	4527	4291	3740	3687	3600	3646	3406
2017/18	4445	4696	4943	4815	4783	4740	4549	3937	3892	3862	3743	3697
2018/19	4439	4602	4810	5043	4918	4881	4769	4187	4107	4086	4025	3807
2019/20	4456	4599	4719	4915	5154	5023	4914	4400	4378	4323	4270	4105
2020/21								4546	4613	4621	4530	4367
2021/22								4678	4758	4861	4834	4624

23. All the local schools in the Madani schools' area are popular and full in most year groups. The Madani schools draw pupils from over 20 primary schools including the independent Leicester Islamic Academy. If this proposal were to proceed most of these schools would lose pupils. However, given their popularity, it is likely that the places lost to the new provision would be replaced by other pupils from the surrounding areas.

School size

24. The guidance says that *“decision makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost effectiveness of a proposal is an important factor for consideration.”*

25. The proposer pointed out that the size of the two secondary schools was small with 300 pupils in each. The operation of primary provision on the site would provide 840 new students and the opportunity for more economies of scale that would help to secure the financial sustainability of the secondary schools.

Equal opportunity issues

26. The guidance says that *“the decision maker should consider whether there are any sex, race or disability discrimination issues that arise from the changes being proposed.”*

27. The schools’ main aim is to ensure that all pupils achieve high standards irrespective of their background. The schools’ governing body has confirmed its commitment to meeting its public sector duties in respect of eliminating discrimination, harassment and victimisation among pupils of all ages, irrespective of their backgrounds and particularly where it is directed at pupils with protected characteristics. It also wishes to promote equality of opportunity and to foster good relations between the full range of groups represented in the school and the local community.

28. The promotion of this proposal would require the governing body to extend these commitments to the primary age range.

Community cohesion

29. When considering a proposal, the guidance says that *“the decision-maker must consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different sections within the community.”*

30. The schools say that they encourage their pupils to become mature, reflective and contributing adults. The schools work with other faith communities across the area and participate in local events to show that the values are common across the community. The proposal would extend the opportunities for the schools to show this commitment to the local community

Travel and accessibility

31. The guidance says that *“the decision-maker should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups. The decision-maker should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes. A proposal should also be considered on the basis of how it will support and contribute to the LA’s duty to promote the use of sustainable travel transport to*

school.”

32. The proposal could lead to an increase in congestion around the school. However, the school points out that the proposed expansion of the schools will create greater opportunities for siblings to attend the same school and in doing so reduce the potential increased car use by parents. Local parents will wish to seek places at the school and in doing so will mean that many children are able to walk to school. The governing body is committed to producing a cross phase travel plan if the proposal is approved.

Capital

33. The guidance says, *“The decision-maker should be satisfied that any land, premises or capital required to implement the proposal will be available.”* If these statutory proposals are approved the Madani Schools will require significant building work to take place. Initial work by architects has shown how the additional 840 places could be accommodated by the purchase and refurbishment of a neighbouring factory building. The cost of this work was discussed, but neither the school nor the LA wished to publish detailed figures because negotiations on the site had yet to take place.

34. The school anticipated that the LA would provide the necessary funds from its basic need budget. However, the LA has decided that it does not wish to fund this project before a future strategic capital report has been written and considered. For the present it has concluded that it will not make the necessary funding available. With this decision made by the LA it is not possible for the proposal to go forward because as the decision maker I cannot be satisfied that the land, premises and capital required will be available.

School premises and playing field

35. The existing secondary schools share a building on a city centre site with some outside play area, but no playing field for team sports. The school uses local playing fields to provide for team sports. The primary expansion would increase the pressure on outside space and continue to require local playing fields to be used for team sports. The proposal sought to mitigate the pressure on outside space by providing an additional rooftop playground area.

36. One of the reasons for the appeal was that the LA had not been specific about why it considered that the proposed teaching and learning environment and the provision of outdoor space were issues. This was further clarified at the meeting. The LA said that the main issues were that the refurbished building would not be ideal for adaptation into two primary schools and there were significant issues concerning the provision of outdoor play.

37. The LA expressed doubts about whether this was the most suitable building and environment for primary school provision. The governors commented that they had been working up the proposal with the assistance of LA officers so they were unclear why the LA was not now supporting the proposal. The LA clarified that the proposal was one of several that it was developing as possible solutions for the provision of new places in schools. These options then had to be considered against the budget available and the pupil number requirements at the time to decide which projects to proceed with past the

feasibility stage.

38. I was shown around the schools during my visit and noted that the current schools had been built with a spacious double height reception area and a courtyard with a large water feature. The new building provides a big contrast to the neighbouring factory which is much older. I can see that the challenges to bring such a building into use for primary school children would be significant. I noted the proposal to mitigate the pressure on outdoor space by conversion of the roof to an outdoor area but, apart from this, the building would provide no additional outdoor space and the children would need to be able to use the limited space that is currently used by the secondary schools. In addition, the schools would still need to have access to playing fields in one of the local parks with the travel issues that this would raise for children of primary age.

Conclusion

39. In drawing these issues to a conclusion, I have noted the proposer's description of the benefits of this proposal. I have taken into account the LA's projection figures that show that the increase in pupil numbers appears to be slowing over the next few years. I have noted the LA's concerns about the suitability of a factory conversion and the availability of outdoor space.

40. The proposer considers that the new places that this proposal would create would help the LA meet the basic need for school places. The LA commented that that some of the pupils would be likely to come from the independent Leicester Islamic Academy. Other pupils would otherwise have attended a wide range of other local schools, any places released at these schools were likely to be filled by other children from a wider area as a result of the popularity of the schools.

41. I have also noted the fact that the LA has decided not to allocate funding from its basic need budget at this time. Without funding, this project cannot proceed and I am not in a position as the decision maker to influence this funding decision. I therefore reject the appeal that has been made.

Determination

42. Under the powers conferred on me by the Education and Inspections Act 2006 and the Regulations made thereunder, I do not uphold this appeal against the decision to reject this proposal to extend the age range for Madani Boys' School and Madani Girls' School with effect from 1 September 2016.

Dated: 20 November 2015

Signed:

Schools Adjudicator: David Lennard Jones