

# Consultation on the Commissioning of a New Primary School for East Wichel

Cabinet

Date: 16<sup>th</sup> April 2008

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**Author:** Cabinet Member for Children's Services and Group Director, Children

**Parish / Wards Affected:** Old Town & Lawn, Wroughton & Chiseldon

## Purpose

- To set out the arrangements for establishing a new primary school at East Wichel.

## Recommendations

Cabinet is requested to

- consider the responses set out in this joint report to the pre-statutory consultation carried out on the proposals for a new primary school for East Wichel;
- authorise the Group Director, Children to apply for the consent of the Secretary of State to publish proposals for a Community Primary School for East Wichel, Swindon,
- authorise the Group Director, Children to publish a formal notice inviting bids to run the proposed new school for East Wichel in a competition.

## 1. Reasons

- 1.1 The Cabinet in June 2007 considered a report on School Places in Wichelstowe. This report indicated the need for three new primary schools in the Wichelstowe development, and that all three would be subject to the new competition regulations introduced by the Department for Children, Schools and Families (DCSF) in 2007.
- 1.2 The Cabinet, at its meeting on 12<sup>th</sup> September 2007, authorised the Group Director to carry out a pre-statutory consultation on the commissioning of the first of three new primary schools for the Wichelstowe area at East Wichel. Cabinet expressed a preference that the three new primary schools should be federated.
- 1.3 This report sets out the background to the provision of a new primary school on the Wichelstowe development, reports on the action taken so far, and proposes that the Local Authority applies to the Secretary of State for consent to promote a Community School at East Wichel.

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Further information on the subject of this report can be obtained from Chris Williams on Direct Dial No. 01793 465771 or Email [cpwilliams@swindon.gov.uk](mailto:cpwilliams@swindon.gov.uk).

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## 2. Detail

### Background

- 2.1 The Education and Inspections Act 2006 confers significant new functions on Local Authorities, including enhanced responsibilities in school place planning and admissions. This includes a requirement that all new schools are subject to competition arrangements to identify who operates them once they are open.
- 2.2 Regulations now require a six-stage process towards establishing a new school through competition arrangements:
- Stage 1 – Consultation
  - Stage 2 – Invitation to bid
  - Stage 3 – Publication of proposals
  - Stage 4 – Representations
  - Stage 5 – Decision
  - Stage 6 – Implementation.
- 2.3 One of the key characteristics of the new arrangements is, therefore, that, apart from in exceptional circumstances, there will be a competition initiated by the Local Authority, in line with its new role as commissioners rather than deliverers of services. The Local Authority (LA) has the power to define the broad specification for new provision and the duty to secure appropriate premises and capital funding. The timeline and key activities within the competition process for East Wichel are set out in **Appendix 1**.
- 2.4 Section 8 of Education and Inspections Act 2006 provides that, if the LA wishes to publish proposals for a Community School in response to a competition, they will be subject to provisions in regulations.
- 2.5 The following set out the rules that apply, dependent on the Annual Performance Assessment rating of the LA concerned:
1. LAs with Annual Performance Assessment (APA) rating of 4 can publish proposals for a new Community school and do not need the prior consent of the Secretary of State;
  2. LAs with APA rating of 3 need consent;
  3. LAs with APA rating of 2 and either or both of the following:

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- less than 15% of Community, Foundation and Voluntary primary or secondary schools in the LA's area are eligible for intervention;
  - more than 15% of their "relevant" schools are Foundation, Voluntary, Academies, City Technology Colleges or City Colleges for technology of arts;
4. Other LAs with APA rating of 2 and LAs with APA rating of 1 cannot publish proposals.
- 2.6 Swindon's APA rating is 2, and meets the further criteria set out under rule 3 above. This means that the Council would need to apply for consent of the Secretary of State for approval before promoting a Community School to be judged within the competition.

### Options

- 2.7 The LA has the following choices under these new arrangements. It can:
1. Run and judge the outcome of the competition  
  
The LA sets the specification and runs the competition itself, but does not promote a Community School. The decision as to who is to run the school is made locally by a Panel of Cabinet against open and transparent criteria set by the LA.
  2. Seek to promote a Community School bid in competition with other proposals  
  
The LA applies to the Secretary of State for permission to put forward a Community bid. The bid is then judged alongside other proposals. The decision as to who wins the competition to run the new school is made by the Office of the Schools Adjudicator, i.e., not locally.
- 2.8 Under the new arrangements, the LA is required to inform local people and seek their views about the specification for the new school. It is not to shape opinion about how that specification might be met, or to promote or seek to close off particular options. The LA has a duty to avoid implying during the consultation that a particular category of school, or a particular type of proposer, would be more or less likely than any other to be able to meet the specification. Any information about the categories of schools,

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which might be proposed in a competition, should be presented in a factual and objective way.

### Process Followed to Date

- 2.9 Children Services distributed 'Consultation on the commissioning of a new Primary School for East Wichel' to all Swindon schools, Ward Councillors, the local MP, bordering LAs, Diocesan Authorities and the Secretary of State. A copy of the consultation document can be found at Appendix 2. The deadline for responses was 28<sup>th</sup> March 2008, and a table showing the response can be found at **Appendix 3 (attached)**
- 2.10 Presentations were made to the two key interested parties in the proposed new school:
- The Wichelstowe Community Forum – 5<sup>th</sup> March 2008
  - The Swindon Association of Primary Headteachers (SAPH) – 14<sup>th</sup> March 2008.
- 2.11 Members of the Community Forum welcomed the LA's commitment to putting in place arrangements for a new school for the area. The housing developers explained that although housing is underway, there would initially be insufficient families in the area to provide sufficient children to fill the school by September 2009. Concerns were raised over how places could be protected for the benefit of those families moving into the area.
- 2.12 Members of the SAPH also welcomed the proposal and requested that the LA apply to the Secretary of State for consent to promote a Community School for the area. Wichelstowe is an area of major new housing growth and SAPH believed the LA should take a lead in providing a new school for the area. Some doubts were, however, expressed about whether the new school buildings would be available by September 2009.
- 2.13 The majority of respondents favoured a Community School for East Wichel and it on the basis of this response that Cabinet members are asked to apply for the consent of the Secretary of State to promote a Community school as part of the competition.

### Further Action

- 2.14 If Cabinet decide to promote a new Community School for East Wichel, the second stage of the process is to seek the formal approval of the Secretary of State for consent to promote this type of provision, and also to publish a formal Notice inviting bids from potential alternative providers.

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The proposed timeline for this second stage is from 23<sup>rd</sup> April 2008 until 23<sup>rd</sup> August 2008.

- 2.15 It will be possible to federate the new school with East Wichel with future primary schools in the Wichelstowe area, once the other two future schools are opened. Regulations do, however, prevent this being a prerequisite of the governance arrangements for schools prior to them becoming established. This will be a matter for the governing bodies concerned.
- 2.16 More information of the timeline, and the key activities within Stages 2, 3, 4, 5 and 6 is shown at **Appendix 1. Appendices 2 and 4** attached show the consultation document and the relevant legal processes, respectively.

### Alternative Options

- Cabinet could decide to run a competition without a Community school proposal. This option would be counter to those representations received during the consultation.

### Risk Management

#### *Financial and Procurement Implications*

- Funding of £6.1m is already identified in the LA's Capital Programme for East Wichel Primary School, which is due to open in September 2009.
- The Council's Strategic Partner, Capita Symonds, is managing procurement and delivery of the new school building.

#### *Legal / Human Rights Implications*

- The legal process required under the Education and Inspections Act 2006 to set up a new school is set out in **Appendix 4**.

#### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

- This report links to the Council's Corporate Plan and to Promises 20 and 45.

### Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
- Wichelstowe Community Forum, Swindon Association of Primary Headteachers (SAPH), all Swindon Schools, Ward Councillors (Old Town & Lawns, Wroughton & Chiseldon), Anne Snelgrove MP, Clifton Catholic Diocesan Schools Commission, Diocese of Bristol Board of Education, The United Learning Trust.

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### **Background Papers and Appendices**

- Primary School Places – Cabinet June 2007
- School Competition Arrangements – Cabinet - September 2007
- Appendix 1 – Timeline and key activities within the competition process
- Appendix 2 – Consultation document
- Appendix 3 – Table showing response
- Appendix 4 – Legal process to set up a new school

### **Key Decision/Decision in Forward Plan**

- This is a key decision and is included in the April 2008 Cabinet Forward Plan.