

## DETERMINATION

**Case reference:** STP/000400

**Referral body:** Somerset County Council

**Statutory proposal:** To make a prescribed alteration to the upper age limit of St Mary and St Peter's Church of England Voluntary Controlled First School and Shepton Beauchamp Church of England Voluntary Controlled First School to be primary schools for pupils to age 11 with effect from 1 September 2009.

**Date of decision:** 19 May 2009

### **Determination**

**Under the powers conferred on me in paragraph 32 of Schedule 3 of The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 made under section 21 of the Education and Inspections Act 2006, I hereby approve the proposal to make a prescribed alteration to the upper age limit of St Mary and St Peter's Church of England Voluntary Controlled First School and Shepton Beauchamp Church of England Voluntary Controlled First School to be primary schools for pupils to age 11 with effect from 1 September 2009.**

### **The referral**

1. On 3 April 2009 Somerset County Council (the Council), the local authority (LA), referred to the Office of the Schools Adjudicator (OSA) an appeal by the governing bodies of St Mary and St Peter's Church of England (CE) Voluntary Controlled (VC) First School and Shepton Beauchamp CE VC First School (the schools) to its Executive Board's decision on 1 April 2009 to reject the schools' proposal to change their age range and become primary schools for pupils to age 11 with effect from 1 September 2009.

### **Jurisdiction**

2. On 27 November 2008 the governing bodies of the schools published a notice proposing a change to the age range of the schools for pupils from age 4 to 9 years as first schools to 4 to 11 years as primary schools. The notice was re-published on 1 January 2009 to correct an error in the admission number of St Mary and St Peter's CE VC First School from 17 to 16. The notice for these linked proposals was in the necessary form as required by Education and Inspections Act 2006 (the Act) and the School Organisation (Prescribed Alterations to

Maintained Schools (England) Regulations 2007 (the Regulations). I am satisfied that I have jurisdiction to consider this matter under the powers conferred by the Act.

### **Procedures**

3. I have considered the proposal afresh and have had full regard to the guidance given by the Secretary of State. As required I have also had regard to the relevant provisions of: The Sex Discrimination Act 1975; The Race Relations Act 1976; The Disability Discrimination Act 1995; and to The Human Rights Act 1998.
4. I have considered all the papers put before me including the following:
  - a. information and supporting papers relating to correspondence and meetings held during the preliminary consultations and formal decisions leading up to the publication of the proposal;
  - b. prescribed information from the proposer as set out in the relevant School Organisation Regulations;
  - c. responses to questions from me and information provided by the LA;
  - d. responses to questions from me and information provided by the Diocese of Bath and Wells (the diocese); and
  - e. the views of interested parties sent directly to me before and following the public meeting I held on 27 April 2009, and the views expressed at that meeting.

On Monday 27 April 2009 I visited the site of Wadham School, Cewkerne; and visited Swanmead Community School, Ilminster; the Ilton and Barrington bases of St Mary and St Peter's CE VC First School; and Shepton Beauchamp CE VC First School to view at first hand the accommodation and locality of these schools. On the same day I held a public meeting at Shepton Beauchamp.

### **The Proposal**

5. The proposal is to change the age range of the schools to become primary schools instead of first schools with effect from 1 September 2009. The proposers wish to:
  - a. provide a "holding strategy" in the short term to keep numbers stable at both the schools in order to contribute and be part of the area review;
  - b. increase the number of children attending the schools to ensure that families in the villages north of Ilminster are able to send their children to local schools of their choice;
  - c. improve the educational outcomes of children in the area;

- d. continue to meet the diverse needs of families in the local area; and
- e. in the long term to be in a position to have positive discussions about meeting the educational needs in the area in terms of locations and buildings.

## **Background**

- 6. The LA has infant, junior, primary, first, middle, secondary and high schools organised in what are commonly referred to as a two tier system of primary (including infant and junior schools where they exist) and secondary schools or a three tier system of first, middle and high schools. The two schools that are the subject of this proposal are part of a three tier area such that pupils are expected to transfer from the schools to Swanmead and then to Wadham. The next nearest schools to the villages of Ilton, Barrington and Shepton Beauchamp for children starting school are primary schools from which children transfer to one of three secondary schools.
- 7. In September 2007 the Executive Board of the council considered a paper entitled "School Organisation Strategy" which recommended a phased review of school provision in Somerset on an area basis beginning with South Somerset. The review currently taking place covers 22 schools in Chard, Ilminster and Crewkerne, and includes the two schools that are the subject of this proposal.
- 8. Officers and headteachers have been working together to look at ideas for future organisation in the area. Officers are examining the feasibility of a number of options and intend to report to the Executive Board in July 2009.
- 9. The schools have a single headteacher and currently have separate governing bodies. Discussions are taking place about the possibility of the schools being federated; already they share some activities.

## **Rejection of the proposal by the Council**

- 10. The Executive Board rejected the proposal for the following reasons:
  - a. there is no evidence that the proposals will raise standards in local provision;
  - b. there is no need to provide additional places in the area;
  - c. there is a risk that if approved there will be redundancies in the middle school; and
  - d. the LA is undertaking a full review of the area which includes the two schools. Taking decisions in advance of the review presents a real danger that if approved they might precipitate a school organisation structure that does not complement the wider education provision in the area.

## **Objections**

11. Four objections were submitted to the published statutory notice of the proposal from: the LA; the headteacher and governors of Wadham School; the governors of Swanmead Community School and the governing body of Greenfyld CE First School, Ilminster.
12. All the objectors refer to the review being conducted by the LA and the potential consequences of the two schools changing their age range in advance of the completion of the review.
13. The three schools that objected also acknowledge the position of the schools and their wish to change. Greenfyld governors also refer to the position of their school as the lease for its premises expires in 2011 and they are concerned that the review should be completed and implemented as soon as possible.

## **Consideration of Factors**

14. I have, as required, had regard to the guidance issued by the Secretary of State and have taken into account material facts and other matters that I regard as relevant and as factual in coming to my decision.

## **Standards of Education**

15. Both schools were inspected in 2007. In February Shepton Beauchamp's overall effectiveness was said to be good and in November St Mary and St Peter's was said to be satisfactory. Swanmead was inspected in July 2008 and its overall effectiveness was judged satisfactory.
16. I note from these inspection reports that despite some turbulence in the staffing at all three schools the pupils have made progress. It is not possible to be certain about standards if the age range of the first schools is extended, but it is generally the case that pupils benefit from having fewer transitions from one school to another, thus a single move from primary to secondary school can be preferable to the two moves in a three tier group of schools.
17. The LA has provided contextual value added data for 2008 for its first schools. The number of pupils assessed each year at the end of Key Stage 1 at the schools and then at the end of Key Stage 2 after two years at the middle school is small, five children from one school and 10 from the other in 2008, which is too small a sample to provide reliable data on the achievements of children from the schools compared with those from other first schools. Also, as I do not have data for children who left the schools and transferred to primary schools I cannot compare achievement at different types of schools, which again would be of limited reliability in relation to the two schools as the numbers involved are small.
18. The schools are confident that the staff have the experience and expertise to teach pupils in Years 5 and 6, as well as being able to

provide the necessary resources. The schools would be in a position not dissimilar to other small rural primary schools in terms of class organisation and limited specialist facilities when compared with the class size, organisation and specialist provision at the middle school. I am satisfied that the schools have given careful thought to the requirements and extra demands of the curriculum for Years 5 and 6. Also, that the majority of parents who have made their views known to me have given consideration to what would and would not be available at the village schools compared with provision at the middle school.

19. I find it impossible to be certain that changing from a first to a primary school will raise standards further, but the enthusiasm of the schools, the majority view of parents and the potential to make one change of school instead of two between the ages of 5 and 16 suggest it is reasonable to expect some improvement.

### Diversity

20. The schools are located on the edge of the area that has three tier provision of schools and is immediately adjacent to primary schools that are part of two tier provision.
21. Parents who prefer the two tier system are exercising their preference by seeking places at primary schools. Those who prefer the three tier system opt for the schools and then the middle and high school. At present there is diversity of provision and parents are fortunate in being able to obtain places at schools of the type they most prefer.
22. The schools argue that the majority of parents now prefer the two tier arrangement and they wish to provide primary education at the schools. The information available to me supports the view that parents prefer primary schools and that the schools are losing so many pupils to primary schools that their viability is threatened.
23. A small number of the responses to consultation and to me directly argue for maintaining the first school age range, but most written responses and the comments expressed at the public meeting I convened were strongly in favour of changing the age range of the schools.
24. In the immediate future changing the age range of the schools would still give parents access to the two or three tier system. The minutes of the Executive Board indicate that the conditions for changing the catchment area would not be met so children could leave at the end of Year 4 and transfer to the middle school or stay at the schools and seek a place at a secondary school at the end of Year 6.
25. The objectors contend that a change to the age range of the schools now could "precipitate a school organisation structure that does not complement the wider education provision in the area". Although the review was initiated in 2007 as yet no proposals have been put to the Council. Proposals are due to be presented in July and if there are

proposals for any change there would need to be an informal consultation and statutory consultation before any change could be decided, and then possibly adjudication before a proposal could be finally agreed leading to implementation.

26. I accept that to have the schools seeking a change now may not be helpful to the review, but I am not persuaded that the impact of the two schools is such that the entire arrangements, yet to be proposed, would be jeopardised.
27. The overall diversity of provision now and for for September 2009 onwards would remain and would be re-visited and when proposals are published. The schools would still be part of whatever proposals emerge at the consultation stage.

### Every Child Matters

28. The schools are working well to provide for the children to help them reach their potential in accordance with the principles of Every Child Matters. The schools have an important, positive place in the community and are regarded as playing a vital role in strengthening community cohesion.
29. The communities' support for the schools was evident at the meeting with parents, residents, governors and councillors all making their views known.

### Need for places

30. The LA's data show that St Mary and St Peter's has 66 pupils on roll and a net capacity of 117. There are 33 pupils at each base; their net capacity is: Ilton base 60 and Barrington base 57. Shepton Beauchamp has 45 pupils on roll and a net capacity of 73. The LA's current forecasts, based on Health Authority data, suggest numbers reaching a high of 94 and 61 children on roll at the two schools respectively with a low of 81 and 49 in 2013 if the age range is increased for the schools to become primary schools compared with highs of 70 and 43 and lows of 61 and 37 if they remain first schools.
31. The proposers report that 21 children have left Shepton Beauchamp since 2007 in addition to those leaving at the end of Year 4. Of the 21, 17 transferred to two local primary schools to join the two tier system. They also report that since they began the process to change the age range of the schools no children have left.
32. The schools have sufficient capacity to accommodate pupils in Years 5 and 6, and wish to change their admission number accordingly so that the number of places is still in line with their net capacity.
33. If pupils were to remain at the schools instead of leaving at the end of Year 4 there would be an impact on the middle school. One of the sets of data I have shows that 92 children were expected to join Swanmead in September 2009, including 11 from St Mary and St Peter's and 9

from Shepton Beauchamp. If I were to approve the proposal it is not inevitable that none of these children would join the Swanmead. It is already the case that not all children who leave the schools at the end of Year 4 transfer to the middle school preferring at that stage to go to a primary school prior to applying for a place at a secondary school. I also have information that shows some children who had been offered places and were expected to go to Swanmead have already withdrawn.

34. I accept that the changing number of children at Swanmead may have implications for the number of staff employed and how classes are organised. I have considered whether the possibility of the effect of the 20 children referred to above all opting to remain at the schools is such that I should reject the proposal, but I do not believe that concern alone about the middle school is sufficient for me to reject the proposal.
35. There is also potentially an impact on neighbouring primary schools that have been recruiting children from the area served by the two schools. None of these schools lodged an objection to the proposal nor have they made any representation to me.
36. In the case of the current proposal, if approved, parents would have to decide whether to seek a place at a secondary school for their child at age 11, or a place at the middle school for two years before transferring to the high school. Overall, there would not be any additional places created for children of Year 5 and Year 6 age. More of the capacity in the schools would be used, but there may be additional spare places at other schools.
37. In terms of the number of primary places available I am not persuaded that there is a requirement for additional primary places at the schools, but children currently have to leave the villages to obtain a Year 5 and Year 6 place. Overall the number of places across Year R to Year 6 would not increase. Places at the schools for children in Years 5 and 6 would increase parental choice of the location at which their children could be educated and would not under current circumstances deny other parents and children a place at their preferred type of school.

### Finance

38. The information provided in the proposal for prescribed alterations records in the project costs section that there are no applicable costs.

### Views of Interested Parties

39. There was extensive consultation on the proposal, as required, prior to publishing the statutory notice. The consultation resulted in 146 responses in favour of the proposals comprising parents, staff, and others from the villages interested in the schools, and 10 against comprising parents and villagers, and 1 undecided.
40. The proposal is supported by the Diocese. Although initially the diocese was not in favour of the proposal, at the meeting of the

Diocesan Board of Education (DBE) on 19 March 2009, members voted unanimously to support the proposal. They referred in their statement to the LA Executive Board to their reasons, which included those given by the proposers, for supporting the proposal and said they had taken other factors into account including any impact on other schools and the fact that the LA is currently reviewing provision in South Somerset. The minutes of the DBE show that much consideration was given to the proposal before the members made their decision.

41. I have received a small number of written representations supporting the status quo and referring to the impression created by the letter from the schools sent to parents alongside the OSA letter informing parents about the meeting and inviting them to attend. These respondents assert that as they do not support the proposals and therefore could not contribute in the positive way suggested by the schools, they did not attend. I regret that there was any question over the open nature of the meeting. Anyone with an interest whatever their views was invited to attend and make those views known.
42. I have read the summary of the responses to consultation and the representations to me that do not support the proposals and taken the reasons given into account in coming to my decision. Among the points made by those against the proposals are: the better, wider range of facilities that are available at Swanmead compared with the schools; more opportunities; more trips and social opportunities; the easing of pupils after Year 4 into a larger school and then by the time of transfer at the end of Year 8 pupils are better prepared for the change to high school than after Year 6 to secondary school; assumption that as a primary school Shepton Beauchamp will become part of the catchment for Huish Episcopi School; and a negative impact on Swanmead.
43. About 80 people attended the public meeting. Most, but not all, of those who spoke at the meeting expressed their support for the schools. The responses to consultation and comments at the meeting included: their wish for children to stay longer at the schools; the schools to remain open; concern that potential pupils do not join the schools when they find they are first not primary schools; pupils leaving at the end of Year 4 who transfer to a primary school are often joined at the same time by younger siblings; give parents more choice; positive impact on the community; and making best use of the expertise of the staff. Overall, many of the comments are linked to a concern that if the schools continue to lose pupils to other primary schools they will become unsustainable. Some responses were from parents who had moved their children to a primary school indicating that they would not have moved their children if the schools had provided an education including Years 5 and 6.
44. I accept the views of those preferring the three tier system, but the proposal does not remove that option for parents. I note the comments about which secondary school it is perceived parents wish their children to attend, but am not convinced that it is only one school that



attracts parents as I heard references to three secondary schools that might attract pupils, not just one.

45. The evidence presented to me shows that the schools are an important part of the community and the diocese and majority of the community wish the schools to become primary schools. The views of interested parties are strongly in favour of the proposals and that support leads me towards approving the proposals.

### Travel

46. The schools mainly serve their immediate communities so extending the age range would increase by two years for some pupils the time during which they do not have to undertake a journey by bus to school. For those children whose parents currently drive to the schools, those journeys would continue. The papers considered by the Council's Executive Board say that the existing school network will not be affected by the proposals. Overall, there would seem to be little impact on travel arrangements. In the responses to consultation there is an occasional reference to potential problems of additional traffic. Such references are followed by the view of respondents saying that this would be a price worth paying to have primary schools and they suggest looking at ways to minimise traffic. I do not find that considerations about travel strongly support either approval or rejection of the proposal.

### Other

47. I have considered the timing of the proposal and the LA's review of provision. As stated above, I do not accept that a decision about the two schools will inevitably precipitate any particular action or decision by the LA. I do not accept that it would be reasonable for the schools to wait until the LA publishes proposals since there are no guarantees about how long it might take for proposals to be agreed by the Council, those proposals to be consulted on and a decision made.
48. I have also given thought to the timing of the proposal for implementation in September 2009. Given that all those who might be affected have know of the intended timescale, although there is likely to be some change in the destination of children currently in Year 4 if I approve the proposals, I am satisfied there is sufficient time to make the change for this September.

### **Conclusion**

49. I have concluded that the support for the proposal is so strong that I would need to have very clear and strong reasons if I were to reject it. I am persuaded that parents are strongly in favour of changing the age range of the schools. The diocese and others connected with the schools are of the same opinion. There is limited opposition to the proposals and the reasons given for this are not sufficient to persuade me that they outweigh the case for approving the proposal. I have

therefore concluded that I should approve the proposal.

### **Determination**

Under the powers conferred on me in paragraph 32 of Schedule 3 of The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 made under section 21 of the Education and Inspections Act 2006, I hereby approve the proposal to make a prescribed alteration to the upper age limit of St Mary and St Peter's Church of England Voluntary Controlled First School and Shepton Beauchamp Church of England Voluntary Controlled First School to be primary schools for pupils to age 11 with effect from 1 September 2009.

Dated: 19 May 2009

Signed:

Schools Adjudicator:  
Dr Elizabeth Passmore