

**Open Report on behalf of Debbie Barnes, Director of Children's Services**

Report to:	<b>Councillor Mrs P A Bradwell, Executive Councillor for Adult Care, Health and Children's Services</b>
Date:	<b>09 August 2013</b>
Subject:	<b>Proposal to revoke the expansion of Spalding Primary School</b>
Decision Reference:	<b>1004777</b>
Key decision?	<b>Yes</b>

**Summary:**

The proposal under consideration is for the Local Authority (LA) to be relieved of the duty to implement the statutory expansion proposal that was published on 2 February 2012. The proposal was to expand Spalding Primary School from 420 to 630 places with an increase in the Published Admission Number (PAN) from 60 to 90. That proposal was approved in May 2012 to come into effect from 1 September 2013. The revocation proposal under consideration in this report would result in the capacity remaining at 420 from 1 September 2013.

As the circumstances have substantially altered since the original expansion proposals were approved, it is considered inappropriate to continue with implementation of the expansion.

The planning application for the LA's preferred option to expand the existing buildings of Spalding Primary School was unsuccessful and therefore the expansion had to be pursued as a split site option via an annex to the school. An Ofsted inspection in September 2012 graded Spalding Primary School as 'Requires Improvement'. In January 2013 there was a change in leadership at the school. In March 2013 governors decided that it would be extremely challenging to manage a split site school expansion whilst continuing to provide a high standard of teaching and learning. They wish to concentrate their efforts on the successful progress being made under the new leadership and management arrangements introduced in January.

The LA must therefore follow the statutory process to revoke the expansion decision and look to expand capacity elsewhere within the locality to ensure that it meets its statutory duty of providing sufficient school places for the children of Spalding.

The LA considers that the best available solution to address the expected shortage of primary school places in this area of Spalding is to revoke the expansion decision and build a new 1 form of entry (210 place) primary school at Wygate Park.

To ensure that both the revocation and new school processes can be carried out within an acceptable and achievable time frame, and so that all legal requirements can be met, it has been necessary to run both processes simultaneously. The process under the Department for Education's (DfE) prescribed Academy Presumption guidelines to find an operator to run a new Academy on the site in Wygate Park commenced to run alongside the revocation process.

The paper reporting on the evaluation process for identifying a suitable operator for the new primary academy ('Proposal for a new primary Academy in Spalding - submission to Secretary of State of results and evaluation of process to identify an operator') is a separate paper.

The LA has co-ordinated the revocation process following statutory DfE guidelines ('Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form') in accordance with the terms of the Education and Inspections Act (EIA) 2006 as updated by the Education Act 2011. The Revocation Notice (copy attached as Appendix A) was published on 9 May 2013 which initiated a six week Representation Period up to 20 June 2013 when written objections and comments may be submitted. The Complete Proposal (copy attached as Appendix B) to which the Revocation Notice refers was sent to interested parties as detailed in the statutory guidance and published on the Lincolnshire County Council (LCC) website at [www.lincolnshire.gov.uk/provisionplanning](http://www.lincolnshire.gov.uk/provisionplanning). This was made available in both electronic and paper format.

The final decision regarding the revocation proposal must now be made and this report seeks to advise the Executive Councillor in accordance with statutory guidance.

The revocation proposal and statutory notice have not been published as related to any other statutory proposal as legally one is not dependant on the other; however, the process to find an operator for a new Academy in Spalding has been run in parallel to the statutory revocation process.

**Recommendation(s):**

That following the completion of the statutory process, in accordance with current legislation, the Executive Councillor for Adult Care, Health and Children's Services is recommended to take the decision to approve the revocation of the expansion of Spalding Primary School with effect from 1 September 2013 as detailed in this report.

**Alternatives Considered:**

1. To continue with the expansion of Spalding Primary School against the wishes of the Governing Body. Therefore the LA continues to work with Spalding Primary School in partnership with support through CfBT to

successfully implement the expansion as a split site model with 1 form of entry (210 places) of accommodation built on the Wygate Park development.

**Reasons for Recommendation:**

- To enable the LA to pursue suitable alternative solutions to meet its statutory obligation to ensure that there are sufficient school places in Spalding for all children of statutory school age.
- The proposal will assist in meeting parental preference in that school places will be provided at a new school within the community of Wygate Park enabling local children to attend their local school and avoid having to take up a school place outside of their community. The Government has made it clear that the wishes of parents should be taken into account in planning and managing school estates. DfE guidance states that places should be allocated where parents want them. This will also help to avoid increased transport costs, the negative impact of extra travelling time on children and extra car usage which would be likely to follow if it were necessary for children to take up school places outside of their community.
- Officers have investigated the potential alternatives. Consideration was given to the local area, the existing schools and the increasing pressure on primary school places. The LA considers the proposal to revoke the expansion of Spalding Primary School and to build a new 1 form of entry primary Academy on Wygate Park to be the best available solution to meet the needs of the children and parents of Spalding with the resources available and to address the expected shortage of primary school places in the area.
- The interim leadership arrangements currently in place at Spalding Primary School are part of a two year temporary collaborative partnership with Pinchbeck East Church of England Primary School which is an "Outstanding" school with a strong Governing Body. The school is making excellent progress under these arrangements. There are currently no long term plans for this collaboration to continue beyond the two year period. If the proposal to expand is not revoked and the expansion continued then this could jeopardise the collaboration and support in place for Spalding Primary School.

**1. Background**

The LA has a statutory duty to ensure that there are sufficient primary school places in Spalding to accommodate the increasing pupil numbers in the community and to provide school places for all children of statutory school age in Lincolnshire within a reasonable distance from where they live.

The LA must follow the statutory process to revoke the expansion decision and look to expand capacity elsewhere within the locality to ensure that it meets its statutory duty. The LA considers that the best available solution to the expected shortage of primary school places in this area of Spalding is to build a new 1 form

of entry (210 place) primary school and has commenced the process under the DfE's prescribed Academy Presumption guidelines to find an operator to run a new Academy on the site in Wygate Park.

The capacity at the school before the expansion proposal was 420 with a PAN of 60. The expansion proposal was to increase the capacity to 630 with a PAN of 90. The school admitted above their usual intake in 2012 and will do so again for the intake in September 2013 by offering up to 90 places in Reception. The LA asked the school to offer above their PAN for these two intakes to ensure a sufficient number of primary school places to accommodate all pupils of a statutory school age whilst a permanent solution was put in place. As a result of the over offers in 2012 and 2013 there will be two bulge years at Spalding Primary School. If the revocation is approved the LA will work with the school on accommodation solutions to manage these bulge years and to meet the needs of the local children, the school and the community. There will be no displaced pupils arising out of the revocation proposal or any negative impact on parental choice. The need for additional primary school places required in this area from September 2014 is now proposed to be met by a new primary Academy on Wygate Park.

The capital costs for building on the new Wygate Park site will be approximately the same whether this is for a new standalone school or a split site expansion. There may be additional capital costs required to manage the bulge years at Spalding Primary School that would be funded and delivered through the Children's Services Capital Programme. There will be LA revenue support required for the start-up costs associated with establishing a new Academy instead of the support that would have been required for the phased expansion of an existing school. There will also be a cost to continue to hire the double mobile at Spalding Primary School if required, whilst an alternative solution is found.

The LA believes that this proposal is in the best interests of local children and local parents as well as educational provision in the area and it reinforces the priorities in the Children and Young People's Plan (CYPP). The proposal will ensure that the provision of school places is planned so as to promote high educational standards, enable fair access to educational opportunity for every child and promote the fulfilment of each child's potential. This proposal will enable alternatives for the addition of capacity in the primary sector which will enhance the quality and sustainability of local provision.

The decision to expand Spalding Primary School was formalised in May 2012 and as a result the PAN at the school for September 2014 has been published as 90. It will be necessary for the school (as a Foundation school), supported by the LA, to make an application to the Office of Schools Adjudicator to formally reduce and publish the PAN back to 60 for September 2014.

### **Reaching the decision – Preliminary Considerations**

The requirements for decision making relating to the expansion of maintained mainstream schools, including revocation, are set out in the guide "Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form" published by the DfE.

The guide sets out certain checks that the decision maker should follow before proceeding to take a decision. These are addressed below:

- (i) Is any information missing? It is considered that there is no information missing and that the Executive Councillor has before her the information that is required to enable a decision to be reached.
- (ii) Is the proposal related to other published proposals? The answer to this is no. However, the process to find an operator of a new Academy in Spalding will run in parallel to the statutory revocation process.
- (iii) Do the published notices comply with statutory requirements and has the statutory consultation been carried out prior to the publication of the notices? The Revocation Notice was published in accordance with paragraph 41 of Schedule 5 of The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007. In accordance with statutory requirements the notice was published in the local press, at the school gates and also within the community at the local library. There is no statutory requirement to consult on revocation prior to publishing a notice.

### **Factors to be considered by Decision Makers**

In reaching a decision the Executive Councillor must have regard to the revocation process within the statutory guidance issued by the Secretary of State (Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form). This paper addresses all factors to be considered in accordance with the guidance. The Complete Proposal (attached as Appendix B) also includes information which must be considered together with any feedback from interested parties received throughout the entire process. However, no responses were received in the Representation Period following the publication of the Revocation Notice. To approve the revocation proposal the Executive Councillor must be satisfied that implementation of the original proposals would be unreasonably difficult or that circumstances have altered significantly enough since the original expansion proposals were approved so that their implementation would be inappropriate.

The LA must decide the revocation proposal within 2 months of the end of the Representation Period on 20 June 2013. If this decision is not taken by 20 August 2013 it must be passed to the schools adjudicator.

### **The Decision**

In considering the proposal the Executive Councillor can:-

- reject the proposal
- approve the proposal
- approve the proposal with a modification (e.g. the implementation date) or
- approve the proposal subject to meeting a specific condition

It is not recommended that the Executive Councillor lays down any specific conditions and therefore the 'Alternatives Considered' section at the start of this report simply deals with the rejection or approval of the proposal.

Reasons must be given for the decision taken including the main factors and criteria whether the proposal is accepted or rejected.

## **2. Conclusion**

A decision is required from the Executive Councillor to determine whether to approve the revocation of the expansion of Spalding Primary School as detailed in this report with an implementation date of 1 September 2013. The factors to consider in making this decision are within this report and all valid written responses received must be considered. However no responses have been received.

The LA believes this proposal to be in the best interests of local children and local parents as well as educational provision in the area and it supports the council's aim of ensuring that as many children as possible can reach their full potential. It also supports the LA in fulfilling its statutory duty of ensuring that there are sufficient places to accommodate all pupils of statutory school age in Lincolnshire without providing an over-supply of school places.

It is recommended that approval be given to the revocation of the expansion of Spalding Primary School. The advantages of implementing this proposal are detailed earlier in this report in the 'Reasons for Recommendations' section.

### **3. Legal Comments:**

The legal issues to be taken into account in the making of this decision, which is within the remit of the Executive Councillor, are fully set out within the report.

### **4. Resource Comments:**

The revocation of the decision to expand Spalding Primary School with effect from 1 September 2013 will likely require some funding from the capital programme to suitably accommodate the 2012 and 2013 intakes at Spalding Primary School. Any on-going revenue costs will be funded from the Dedicated Schools Grant.

## **5. Consultation**

Under current legislation the LA is the decision maker for the proposal and is co-ordinating the statutory process before making a decision at the end of the process in August 2013. The LA must be able to show that all relevant issues raised are taken into consideration in the decision making process. Points raised can be considered unpersuasive but must not be ignored altogether. No responses were received during the Representation Period (from 9 May to 20 June 2013) following the publication of the Revocation Notice.

The Revocation Notice (copy attached as Appendix A) was published on 9 May 2013 which initiated a six week Representation Period up to 20 June 2013 when written objections and comments may be submitted. The Complete Proposal (copy attached as Appendix B), available in electronic and paper format, to which the Revocation Notice refers was sent to interested parties as detailed in the statutory guidance and published on the Lincolnshire County Council (LCC) website at [www.lincolnshire.gov.uk/provisionplanning](http://www.lincolnshire.gov.uk/provisionplanning). In accordance with statutory requirements the notice was published in the local press, at the school gates and also within the community at the local library.

Information regarding this proposal has also been made available through the County Council website since the start of the revocation process on 9<sup>th</sup> May 2013 and the Executive Councillor for Adult Care, Health and Children's Services has been engaged throughout the entire process.

The last stage of the statutory process is the revocation of the decision to expand Spalding Primary School with effect from 1 September 2013 if approval is given by the Executive Councillor.

**a) Has Local Member Been Consulted?**

Yes, the local member has been made aware of the proposal to revoke the expansion of Spalding Primary School.

**b) Has Executive Councillor Been Consulted?**

Yes, the Executive Councillor has been involved in the discussions regarding the proposal to revoke the expansion of Spalding Primary School.

**c) Scrutiny Comments**

The Children and Young People Scrutiny Committee considered the expansion proposal at its meeting on 26 July 2013. *Comments from this meeting will be included here to inform the Executive Councillor when making her decision which is due to be taken on 9 August 2013.*

**d) Policy Proofing Actions Required**

An Impact Analysis has been completed. In summary this analysis indicates that the potential for any negative impact is virtually nil. There will be no displaced pupils arising out of the revocation proposal or any negative impact on parental preference. Although there will remain two bulge years at Spalding Primary School the LA will work with the school on accommodation solutions to manage these bulge years and ensure that the needs of the local children, the school and community will be met without any negative impact. The revocation proposal will enable the Governing Body and the leadership of Spalding Primary School to concentrate their efforts on the collaborative partnership with Pinchbeck East Church of England Primary School and also enable the LA to pursue alternative solutions to meet its statutory obligation to ensure that there are sufficient school places in Spalding for all children of statutory school age.

Apart from its obligations to consider the statutory guidance referred to, the Council has obligations under the Equality Act 2010 which must be taken into account by the Executive Councillor when coming to a decision.

The Council must, in the exercise of its functions, have due regard to the need to:

(1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;

(2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it: Equality Act 2010 s 149(1). The relevant protected characteristics are age; disability; gender reassignment; pregnancy & maternity; race; religion or belief; sex; sexual orientation: s 149(7).

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.

The Council believes that this proposal will not lead to any discrimination and that in recommending the proposal the Council is having due regard to its obligations under The Equality Act.

## 6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Revocation Notice
Appendix B	Complete Proposal

## 7. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Proposal to expand Spalding Primary School	Lincolnshire County Council Committee Records (Reference 01969) 01 May 2012
Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form	<a href="http://www.education.gov.uk/schools/leadership/schoolorganisation/b0075166/other-changes-to-a-school-and-expansions">http://www.education.gov.uk/schools/leadership/schoolorganisation/b0075166/other-changes-to-a-school-and-expansions</a>
Impact Analysis	Available on request from the Property and Technology Management Team, Children's Services

This report was written by Michelle Andrews, who can be contacted on 01522 553269 or michelle.andrews@lincolnshire.gov.uk.



**Proposal to revoke the decision to expand the capacity at Spalding Primary School**

Notice is given in accordance with paragraph 41 to Schedule 5 of The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 that Lincolnshire County Council, County Offices, Newland, Lincoln LN1 1YQ proposes to be relieved of the duty to implement the statutory proposal published on 2 February 2012.

This proposal was to expand the capacity at Spalding Primary School, Woolram Wygate, Spalding PE11 1PB from 420 to 630 with an increase in the Published Admission Number from 60 to 90, approved to come into effect from 1 September 2013.

The Local Authority proposes that a duty to implement the proposal should not apply because the planning application was turned down for an expansion to the existing buildings. The Governing Body of Spalding Primary School has decided that it would be extremely challenging to manage a split site school whilst continuing to provide a high standard of teaching and learning. Governors of the school wish to concentrate efforts on their successful progress under the new leadership and management arrangements.

Within six weeks after the date of publication of this proposal, any person may object to or make comments on the proposal by sending their representations to Provision Planning, Children's Services, Lincolnshire County Council, County Offices, Newland, Lincoln LN1 1YQ or by emailing [provisionplanning@lincolnshire.gov.uk](mailto:provisionplanning@lincolnshire.gov.uk)

Signed: Debbie Barnes  
Director of Children's Services

Publication Date: 9 May 2013

**Notes**

1. In order to ensure that sufficient primary school places are available in this area of Spalding to meet future increasing demand the Local Authority will be looking to open a new 1 form of entry primary Academy on the Wygate Park site with a planned implementation date of 1 September 2014.
2. The Local Authority has commenced the selection and evaluation process to find an operator for a new primary Academy on the Wygate Park site.



**Complete Proposal  
to Revoke the Expansion of  
Spalding Primary School**

**PROPOSALS TO REVOKE THE DECISION TO IMPLEMENT A PRESCRIBED  
ALTERATION TO A SCHOOL**

Matters to be specified in accordance with Schedule 5 of The School Organisation  
(Prescribed Alterations to Maintained Schools)(England) Regulations 2007

**9 MAY 2013**

## **Contact details**

This proposal has been published by Lincolnshire County Council, County Offices, Newland, Lincoln LN1 1YQ regarding the revocation of the decision to expand Spalding Primary School, Woolram Wygate, Spalding PE11 1PB.

## **Implementation**

The proposal is for the Local Authority (LA) to be relieved of the duty to implement the statutory proposal that was published on 2 February 2012. This proposal was to expand the capacity at Spalding Primary School from 420 to 630 places with an increase in the Published Admission Number (PAN) from 60 to 90 and was approved to come into effect from 1 September 2013.

## **Objections and Comments**

Any person or organisation may object to or make comments on the proposal by sending them to Provision Planning, Children's Services, Lincolnshire County Council, County Offices, Newland, Lincoln LN1 1YQ or by emailing [provisionplanning@lincolnshire.gov.uk](mailto:provisionplanning@lincolnshire.gov.uk) to be received by the deadline of 20 June 2013.

## **Alteration description**

The proposal under consideration would result in the capacity reverting to 420 with a PAN of 60 with effect from 1 September 2013.

## **School Capacity and Site**

The capacity at the school before the expansion proposal was 420 with a PAN of 60. The expansion proposal was to increase the capacity to 630 with a PAN of 90. The school admitted above their usual intake in 2012 and will do so also for the intake in September 2013 by offering up to 90 places in Reception. The LA asked the school to offer above their PAN for these two intakes to ensure a sufficient number of primary school places to accommodate all pupils of a statutory school age. As a result of the expansion proposal that was approved in May 2012 there will be two bulge years at Spalding Primary School. The LA will work with the school on accommodation solutions to manage these bulge years and to meet the needs of the local children, the school and the community. The need for additional primary school places required in this area from September 2014 is now proposed to be met by a new primary Academy on Wygate Park.

## **Objectives**

The objective is both to ensure that there are sufficient primary school places in Spalding to accommodate the increasing pupil numbers in the community and also to enable the LA to fulfil its statutory duty of providing school places for all children of statutory school age in Lincolnshire within a reasonable distance from where they live.

To fulfil this objective a statutory process was followed and decision taken in May 2012 to expand the capacity at Spalding Primary School with effect from 1 September 2013. The subsequent planning application for the LA's preferred option to expand the existing buildings was turned down and therefore the expansion had to be pursued as a split site option via an annex to the school. The Governing Body of the school decided that it would be extremely challenging to manage a split site school whilst continuing to provide a high standard of teaching and learning and wished to concentrate their efforts on their successful progress under the new leadership and management arrangements introduced in January following the implementation of a collaborative partnership with Pinchbeck East Church of England Primary School. The Governing Body therefore confirmed their decision in March 2013 not to continue with the proposed split site expansion.

As the circumstances have substantially altered since the original proposals were approved it would be inappropriate to continue with implementation. The LA must therefore follow the statutory process to revoke the expansion decision and look to expand capacity elsewhere within the locality to ensure that it meets its statutory duty of providing sufficient school places for children in Lincolnshire. The LA considers that the best available solution to the expected shortage of primary school places in this area of Spalding is to build a new 1 form of entry (210 place) primary school and has commenced the process under the Department for Education's prescribed Academy Presumption guidelines to find an operator to run a new Academy on the site in Wygate Park.

The LA believes this proposal to be in the best interests of local children and local parents as well as educational provision in the area and it reinforces the priorities in the Children and Young People's Plan (CYPP). The proposal will ensure that the provision of school places is planned so as to promote high educational standards, enable fair access to educational opportunity for every child and promote the fulfilment of each child's potential. This proposal will both enhance the quality of provision and sustain local provision.

The publication of the Statutory Revocation Notice will enable the statutory and legal processes to proceed and in accordance with statutory guidelines will provide an opportunity for people and organisations to express their views about the proposal and ensure that they will be taken into account by the Executive Councillor.

The decision to expand Spalding Primary School was formalised in May 2012 and as a result the places available at the school for September 2014 has been published as 90. It will be necessary for the school, supported by the LA, to make an application to the Office of Schools Adjudicator to formally reduce and publish the school places available back to 60 for September 2014.

### **Special Educational Needs (SEN) provision**

The revocation of the expansion of the school is not likely to have any impact on SEN provision other than an opportunity at the new school to improve the provision with better access to resources and consistently good quality teaching, learning and leadership. Consideration of pupils with SEN will take place and the LA will continue

to look to make improvements in the standard, quality and/or range of the education provision for children with SEN.

### **Need for places**

The revocation of the decision to expand from 420 to 630 at Spalding Primary School will mean that it will retain its original capacity of 420. There will be no displaced pupils arising out of the revocation proposals or any negative impact on parental choice. However the need for additional primary school places in the future will be met by the opening of a new primary Academy offering 210 places.

### **Related Proposals**

The proposal to revoke the decision to expand Spalding Primary School has not been published as related to any other statutory proposal. However the process to find an operator of a new Academy in Spalding will run in parallel to the statutory revocation process.

### **What will happen now?**

Any person may object to or make comments on this proposal by sending them to Provision Planning, Children's Services, Lincolnshire County Council, County Offices, Newland, Lincoln, Lincolnshire, LN1 1YQ or by emailing [provisionplanning@lincolnshire.gov.uk](mailto:provisionplanning@lincolnshire.gov.uk)

At the close of the 6 week representation period on 20 June 2013 responses will be collated and analysed and a final report will be presented to the Executive Councillor in August 2013 for a decision on the revocation of the expansion of the school. The representation period is the final opportunity for people and organisations to express their views about the revocation proposal and ensure that they will be taken into account by the decision maker.

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