

**Proposal for the Publication of Statutory Proposals for the Closure of  
Penhill Primary School and Nursery  
to Allow Expansion of Swindon Academy**

**CABINET**

**Date: 23 July 2008**

**Author:** Cabinet Member for Health, Housing and Adult Social Care and Group Director, Children

**Parish / Wards Affected:** Penhill, Gorse Hill & Pinehurst and Moredon

**Purpose**

To report on the outcome of pre-statutory consultation on the proposal to amalgamate Penhill Primary School with Swindon Academy. This would involve the closure of Penhill Primary School and Nursery to allow the expansion of Swindon Academy on the existing Penhill site in refurbished accommodation

**Recommendations**

Cabinet is requested to:

- consider the responses set out in this report to the pre-statutory consultation carried out into the proposed closure of Penhill Primary School and Nursery in **Appendix 3**, and the summary of the consultation undertaken by DJB Consultancy, independent consultants appointed by the United Learning Trust (ULT) set out in **Appendix 4**, regarding the proposal to expand Swindon Academy to include Penhill Primary School and Nursery.
- authorise the Group Director, Children to publish statutory proposals to close Penhill Primary School and Nursery with effect from 31 December 2008, on the basis that it becomes part of Swindon Academy with effect from 1 January 2009;
- note that the outcome of the statutory consultation will be reported to the Cabinet Panel that considers and makes final decisions on school reorganisation proposals.

**1. Reasons**

- 1.1 The aim of the proposed closure of Penhill Primary School and Nursery to allow the expansion of Swindon Academy is to improve the overall quality of education provided for the children of Penhill and, in particular, to raise educational standards and strengthen the development of good practice.
- 1.2 Standards of attainment at the end of 2007 were inadequate and well below the national average, although, overall, pupils made satisfactory progress. The Ofsted inspection in September 2007 judged that achievement overall across the School was satisfactory, although

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performance was not consistent and varied across Year groups and subjects. The Ofsted inspection graded the school in twenty seven areas. In two of these areas – healthy lifestyles, and safe practices – the school received a grade 2 (generally above average). In twenty-three areas the school received a grade 3 (broadly average to below average) and in two areas it received a grade 4 (exceptionally low). These two areas were the standards reached by learners' and pupil attendance. This judgement confirms the view of the Local Authority that pupils in this school are not achieving well enough at primary level to be successful in their secondary school and on into life. Whilst the rate of pupil progress is accelerating, the School does not expect to exceed the floor targets of 65% for English or Maths in 2008, meaning that standards will still be well below the national average for the fifth year running. The DCSF require the local authority to address this issue.

- 1.3 Penhill Primary School and Nursery is on the Department for Children, Schools and Families (DCSF) list of 266 "hard to shift" primary schools in England and has failed to meet the floor target at Key Stage 2 in both Maths and English for the last five years, despite being the subject to a Local Authority Task Group and a School Improvement Action Plan. This means that the school receives considerable additional resources and support from the Local Authority. It is considered that a structural solution is, therefore, required to move this School forward. If the School became part of the Academy, it would benefit from the drive to raise standards already evident within the Academy.
- 1.4 Cabinet decided on 31 October 2007 to submit an Expression of Interest to the DCSF for Penhill Primary School and Nursery to be closed and incorporated within Swindon Academy. This was subsequently agreed by the DCSF, and Cabinet, at its meeting in January 2008, agreed that pre-statutory consultation should be carried out with parents, staff, Governors and the local community.
- 1.5 The pre-statutory consultation has now been completed and the results are set out in this report. The report also includes a summary of the parallel consultation of the local community carried out by DJB, independent consultants appointed by the United Learning Trust (ULT), which runs Swindon Academy.
- 1.6 The consultation document produced by the Local Authority is attached at **Appendix 1**. The consultation document issued by ULT is attached at **Appendix 2**. The summary results of the pre-statutory consultation carried out by the Local Authority are set out in **Appendix 3**. A summary

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of the consultation with the local community carried out by DJB is set out in **Appendix 4**. **Appendix 5** sets out responses to key issues raised in the consultation. This appendix is TO FOLLOW as a significant number of responses, including one from Penhill Primary School Governing Body, were received on the last day of the consultation period (14<sup>th</sup> July), the day before the despatch of the agenda.

**2. Detail**

Background

- 2.1 Following approval of the Expression of Interest by the DCSF, the Cabinet agreed at its meeting on 23 January 2008 that pre-statutory consultation should be carried out on the proposal that Penhill Primary School and Nursery should be closed in order to allow the expansion of Swindon Academy. The school would remain on its existing site in Penhill, and the accommodation would be refurbished. It was proposed, at that time, that this should – if agreed – be implemented from September 2008. However, it has subsequently become clear that a January 2009 implementation date is more realistic.
- 2.2 It will be recalled that the 0-19 Swindon Academy opened on the Headlands and Pinehurst sites in September 2007. The Academy incorporated the former Headlands and Pinehurst Infant and Junior Schools and Nursery. The Academy works in close partnership with Sure Start in relation to Early Years provision.
- 2.3 At the time the consultation was carried out on the proposed Academy in Summer 2006, it became clear that some members of the community of Penhill felt that their children might miss out on the Academy development. Although children from the Penhill Primary School and Nursery area have the opportunity to apply for a place at the Academy at secondary school stage, there was a perception that primary-aged children may be disadvantaged compared to those in the former Pinehurst Schools.
- 2.4 Pre-statutory consultation has, therefore, been undertaken on this proposal and further details are set out below.

Objectives of Proposal

- 2.5 As previously reported to the Cabinet, there are a number of objectives of this proposal, including:

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- Penhill Primary School and Nursery is on the DCSF list of 266 “hard to shift” primary schools in England and has failed to meet the floor target at Key Stage 2 in both Maths and English for five years.
- An all-through Academy can help pupils with transition from one school to another and provides continuity of teaching and learning for pupils. Evidence shows that pupil performance dips and pupil progress is slowed as a result of moving schools.
- As the Academy admissions policy is based on distance, being on roll at the Academy will guarantee Penhill pupils a place at 11 years old, if that is the preference of parents. If Penhill Primary remains outside the Academy, a place cannot automatically be guaranteed.
- The developing educational plans for the all-through Academy suggest that it will break out from traditional Year group structures and move towards working within vertically organised systems, where the needs of the individual learner can be more readily met and personalised.
- As well as helping to raise standards, the expansion of the Academy to include Penhill Primary School and Nursery would promote inclusion and there would be benefits attached to continuity of care, especially for more vulnerable children.
- An all-through Academy would help the multi-agency team support children better through, for example, easier access and economies of scale for all agencies involved.

2.6 Further details of the objectives of the proposal are set out in the consultation documents attached to this report as **Appendices 1 and 2**.

## Pre-Statutory Consultation Process

- 2.7 The Local Authority’s pre-statutory consultation process ran from 1 June – 14 July 2008. The attached Local Authority consultation document, together with the attached ULT consultation document, were both sent to every household in Penhill, together with a number of other key stakeholders, on the weekend of 31 May/1 June 2008.
- 2.8 Formal consultation meetings were held for parents and carers (two meetings) and for staff and Governors on 9 June 2008. A further meeting was held for the public on 12 June 2008. DJB, independent consultants

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appointed by ULT, chaired the meetings and a ULT representative also attended.

- 2.9 DJB, whilst working closely with the Local Authority, has carried out its own separate consultation exercise, involving focus groups and interviewing of stakeholders, including parents, local residents and representatives of the Local Authority.

Results of Consultation

- 2.10 The results of the pre-statutory consultation undertaken by the Local Authority are set out in **Appendix 3** attached. A summary of the consultation so far undertaken by DJB is set out in **Appendix 4**. **Appendix 5** (TO FOLLOW) sets out responses by the Local Authority to key issues raised in the consultation.
- 2.11 As will be seen from **Appendix 3**, a number of issues and concerns were raised at the consultation meetings held on 9 and 12 June, and in the response forms returned to Children's Services. The written responses from trades unions and Swindon Academy are also attached to this appendix. Around 3500 consultation documents (including response forms) were sent out across Penhill and to other stakeholders - about 11% of response forms were returned. In addition, on 11<sup>th</sup> July, a 432 signature petition was delivered to the Council opposing the proposal to close Penhill Primary School to enable it to become part of the Academy. Further information on this is also set out in **Appendix 3**. The Cabinet are asked to consider the summary of responses received. Copies of the forms returned and other information, including the petition, will be available in the Members Room and at the meeting.
- 2.12 The Governing Body of Penhill Primary School during the consultation also expressed a view that they may wish to explore the option of seeking Trust Status. This would involve the school changing its status from Community to Trust, and linking in with a Trust partner (or partners) such as a locally based business or educational establishment. The school would remain within the Local Authority, but the Trust would become the employer of its staff, be responsible for its own admissions policy and would own the site/buildings.

Conclusions

- 2.13 As shown in **Appendices 3 and 4**, there are a wide range of views that have been expressed in the consultation, including a number of concerns

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about the proposed course of action. However, it remains the view of officers that inclusion within the Academy offers the best opportunity for a step change to address the serious standards and attainment issues that Penhill Primary has faced for a number of years.

- 2.14 Despite the best efforts of the school, with the support of the Local Authority, Penhill remains in the DCSF list of 266 'hard to shift' primary schools out of approximately 17,000 nationally. The DCSF require the Local Authority to address this issue. Inclusion within the Academy is seen as the best way forward.

## **Alternative Options**

The main alternative to not proceeding to the statutory consultation is to withdraw from the proposal to close Penhill Primary School and Nursery to allow stage expansion of the Academy. However, by taking this action, it is considered that a major opportunity will be lost to raise standards and pupil attainment at the School. Despite very considerable Local Authority support over a number of years, the School continues to under-perform and it is felt that a structural change will provide the impetus to move the School forward for the benefit of the pupils of Penhill. Other options, such as federating with a successful school, have previously been considered but these have been rejected, as it is not clear that they would have sufficient impact.

In addition, it will be seen that the Governing Body of Penhill Primary School proposed during the consultation process that an alternative option for the school may be to pursue Trust Status. If the school pursue Trust status that would not prevent the Council proceeding with the proposals to close the school. Governors expressed the view that this approach may give them greater control over their own future and could be a more effective approach in their view of addressing improved standards and pupil attainment. This therefore represents an alternative option that Cabinet is asked to consider. It does, however, remain the view of officers that inclusion within the Academy is a better option, for the reasons set out in this report, and would offer a more effective structural change for the school, with an established educational provider driving up standards and attainment. The Academy would also be able to offer Penhill pupils better transition from Year 6 to Year 7 and beyond, together with a wider range of facilities and expertise.

## **Risk Management**

### *Financial and Procurement Implications*

- The costs of publishing statutory proposals are contained within the Access & Provision Directorate cash limit.

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- To bring the quality of accommodation up to a higher standard and thereby make the school fit for purpose, it is currently estimated that £2.3m capital expenditure is required. This follows surveys carried out by the Local Authority and, more recently, by ULT. The results of these surveys are in the process of being analysed further. A review of the Children's capital programme has identified that a number of schemes are currently predicted to come in under budget and that the funding this will release, together with external grant funding that is available, is sufficient to fund the expenditure required as long as no more than half is needed in the current financial year.
- When a school becomes an Academy the funding that Local Authorities receive direct from the Department of Children, Schools and Families (DCSF) for that school is removed from the overall dedicated schools grant (DSG). Due to the funding of schools and the requirement to provide retained services from the DSG - i.e. special educational needs assessments, out of borough placements there may be financial implications relating to the retained services due to variations between the level of per pupil funding the Council receives from the DCSF compared to the per pupil funding that is allocated directly to the school.
- In the current year Swindon receives £3,775 per pupil from the DCSF. Based on the January 2008 PLASC data, 334 pupils attend Penhill school, therefore, the amount of DSG that would be removed from Swindon's allocation (assuming a full year impact) would be £1.26m. The current funding formula within Swindon allocates a total budget for Penhill of £1.079m. The difference of funding contributes towards the retained services within the DSG. The table below illustrates that if Penhill became part of the Academy from 1<sup>st</sup> April 2008, there would be a reduction of grant, totalling £183k that currently supports the retained services.

	<b>Based on 2008/09 budget &amp; pupil numbers for Penhill totalling 334</b>			
	£s			£s
DSG per pupil	3,775		Total reduction of DSG	1,260,850
School Budget per pupil	3,228		Total School Budgets	1,078,152
Difference per pupil	547		Total Difference	182,698

*Legal / Human Rights Implications*

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- Before deciding to publish proposals to close Penhill Primary School and Nursery, the Local Authority is required by statute to carry out a pre-statutory consultation. If the Local Authority then decides to publish proposals and any person objects to the proposals, the Cabinet Panel decides on the proposals. There is a six week period during which any person can make representations to the Local Authority and then the Cabinet Panel decides on the proposals. The following bodies may appeal the Cabinet Panel decision to the Adjudicator:
  - The Local Church of England Diocese
  - The Bishop of the Local Roman Catholic Diocese
  - The Governing Body or Trustees of a Foundation, Trust or Voluntary school Appeals must be made within 1 month. There is no statutory timescale for the Adjudicator to decide. The formal approval of the expansion of the Academy rests with the Secretary of State.
- In order to become a Trust School, governors would have to follow a statutory process which includes a pre-statutory consultation, the issue of a statutory notice, a period for representations and the final decision being made by the Governing Body. The decision would not be made by the Governing Body if the Local Authority referred the proposals to the School Adjudicator at the representation stage.
- If the closure and expansion of the Academy is agreed, the Local Authority will need to enter into a Heads of Terms Agreement with the United Learning Trust which will provide a guide to the legal framework required from each party as part of the commitment should this proceed. The Heads of Terms is not legally binding but if agreed the legal documentation required will need to be progressed urgently in order to meet the implementation timescales.
- If the closure and expansion of the Academy is agreed then all employees will transfer their employment to the United Learning Trust. All contractual rights will transfer under the TUPE regulations 2006. Staff will continue to contribute to both the Local Government Pension Scheme and Teacher Pensions Scheme.

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

- There is a direct link to the Strategic Management Plan for Children Services and the proposed expansion of the Academy would support Council Promises 20 and 45.

### **Consultees**

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- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.
  - There has been widespread consultation undertaken on these proposals as set out above in the body of the report. Stakeholders consulted include:

- Parents
- Staff
- Governors
- Local residents
- Penhill Community Groups/Leaders
- Ward Councillors

**Background Papers and Appendices**

- Appendix 1 – Local Authority consultation document
- Appendix 2 – DJB consultation document
- Appendix 3 – Summary of consultation carried out by Local Authority
- Appendix 4 – Summary of consultation undertaken by DJB
- Appendix 5 – Responses to Key Issues raised TO FOLLOW
- Reports to Cabinet on:
  - 31 October 2007
  - 23 January 2008

**Key Decision / Decision in Forward Plan**

- This is a key decision for Cabinet and has been included in the Cabinet Forward Plan for July 2008.