

Item No. 8.	Classification: Open	Date: 19 July 2011	Meeting Name: Cabinet
Report title:		Reporting the outcome of statutory consultation on the proposed amalgamation of the Alma and St James CE Primary Schools and recommending the closure of Alma Primary School on 31 August 2011 and the enlargement of St James CE Primary School from a 1 to a 2FE Primary School from September 1 2011	
Ward(s) or groups affected:		Grange and Riverside	
Cabinet Member:		Councillor Catherine McDonald, Children's Services	

FOREWORD – COUNCILLOR CATHERINE MCDONALD, CABINET MEMBER FOR CHILDREN'S SERVICES

This report details the outcome of the statutory consultation on the proposed amalgamation of Alma Primary School with St James CE Primary School, which will be achieved by the closure of the former school and the enlargement of the latter. Amalgamation is the best option for supporting Alma school, which is a failing school that is subject to a Notice to Improve. It formally puts in place arrangements that have been made through a soft federation between the two schools, which has already led to improvements at Alma school. Amalgamation would have a continuing positive effect on standards because all pupils at both schools would be taught at one outstanding school.

The appropriate consultation has been carried out with all the local stakeholders, including all the parents of both schools. Both schools' governing bodies have voted in favour of the proposals. There were more comments as a result of the initial consultation and these were addressed before the statutory notice was published. There have only been two responses to the notice; one for and one against amalgamation. These responses are appraised in the report, which recommends that the amalgamation proceeds.

The number of places (excluding the bulge class) will be the same after the merger as before.

RECOMMENDATIONS

1. That the Cabinet agrees the proposals contained in the statutory notice which will effect the amalgamation of Alma Primary School and St James CE Primary School, by the closure of Alma Primary School on 31 August 2011 and the enlargement of St James CE Primary School from 1 September 2011.
2. That the Cabinet agrees to delegate authority to the Head of Property to agree terms for the disposal of an appropriate interest in the Alma school site in accordance with the provisions set out in the Strategic Director of Communities, Law and Governance's concurrent.

BACKGROUND INFORMATION

3. On February 17 2011 the Cabinet Member for Children's Services agreed in principle to a proposal to consult on the amalgamation of Alma and St James CE Primary Schools, by the closure of the former and enlargement of the latter.
4. The outcome of the initial consultation was reported to the Cabinet Member for Children's Services in April 2011 who agreed the publication of a statutory notice proposing to close Alma Primary School on 31 August 2011 and enlarge St James CE Primary School from 1 September 2011.
5. The responses to the statutory notice have been as follows - one for and one against amalgamation. These are addressed later in this report. The Alma and St James CE Primary School governing bodies have voted unanimously in favour of the proposals at their spring term meetings.
6. Alma Primary School was a school in special measures and is currently subject to a Notice to Improve. It is part of a 'soft federation' with St James C of E Primary School under the executive headship of the substantive head of St James, which has been graded as 'outstanding' by Ofsted. The school serves the same community as Alma in the Bermondsey Community Council Area. The immediate advantage of this amalgamation would be that Alma Primary School would be merged with St James' CE, and in so doing would lose the Notice to Improve and gain the expertise and support of the outstanding school.
7. The Southwark Diocesan Board is supportive of the proposal. It is proposed that St James would take over the Alma school accommodation and all the pupils at Alma school would have a place at the newly enlarged St James CE primary. It is envisaged that the St James CE site will be used for Key Stage 1 and the Alma site will be used as Key Stage 2.

KEY ISSUES FOR CONSIDERATION

Policy implications

Effect on standards, contribution to school improvement

8. Alma Primary School is a failing school which currently has a Notice to Improve. The Council has a duty to promote high standards when carrying out its education functions and therefore reviews all its failing schools to ensure that they are turned round and become good schools.
9. In the case of Alma Primary School the Local Authority established a soft federation with St James CE Primary School, which is an outstanding school that has achieved excellent results – in 2010 100% of pupils at KS2 achieved above Level 4 in English and Maths and the school had a Contextual Value Added (CVA) KS1-2 score of 104.3, whereas Alma had 55% achieving above Level 4 in English and Maths and a CVA KS1-2 score of 99.0. St James CE was recognised by Ofsted as a very successful school particularly on account of the school management and the quality of teaching, which would continue into the new enlarged school.
10. Both schools are one form entry primary schools. Alma school currently has 197 pupils, St James has 207 pupils. St James CE Primary School is on Old

Jamaica Road SE16 and Alma Primary School is in Alexis Street SE16. The two schools are some quarter of a mile apart.

11. The St James' headteacher has already begun improving Alma Primary School. Good systems and focused learning will achieve the transformation to a single outstanding school. The staff team will work with the parents and children to achieve high standards for all children within the school community. The amalgamation would have a positive impact on standards because all the pupils at the two schools would be taught at an outstanding school, thus raising local standards and narrowing attainment gaps.
12. Alternative options to amalgamation that were considered include the closure of Alma Primary School, but, in the context of rising rolls, this would have resulted in too few primary places in the area. A change in school management would not meet the DfE requirement that the Council make arrangements to deal with the failing Alma school as soon as possible. The view was also taken that the amalgamation option was preferable to making the school an academy. It was felt that there were greater benefits to be derived for the local community as a two form entry school than as a one form entry academy. The two form entry model is considered to offer an optimum balance in terms of size, large enough to attract a budget to support an extended curriculum whilst retaining the character of a small school. The present proposals ensure that the amalgamated school remains within the local family of schools and, importantly draws immediate benefit from the outstanding practice at St. James.

Balance of denominational provision

13. St James CE 's current admission policy is determined by the governors and gives priority to 'Looked after' children and then those with a Church affiliation. The school offers places on the basis of those children whose parents worship at St James Church Bermondsey or other church affiliated to Churches Together in England and who live in the school's catchment area. All places could be denominational but in practice the school has a mix of denominational and community places. As it stands children from families who are regular attendees at Church are allocated a place first, in line with the published criteria. Remaining places are then allocated to siblings of children on the roll and then to those living nearest the school. In practice St James offers a mix of denominational and non denominational places. Alma school provides 30 community places using the Council's stated criteria.
14. The governors of St James CE Primary School have agreed to provide 20 denominational and 40 community places in each intake year when the school is enlarged to 2FE. Although this would nominally provide more community places than at present, ultimately because the school currently has a mix of denominational and community places the balance of denominational and community places in the area is likely to remain the same. As St James CE is its own admission authority, it will apply to the Secretary of State to seek an in year variation to its published admission arrangements for 2012/13.
15. Pupils from both schools will continue to have access to extended services, opportunities for personal development and measures to address barriers to participation and support for children and young people with particular needs.

Need for places

16. School roll projections are updated annually; the projections for the borough as a whole show the need for additional reception places from September 2011, including in the north of the borough. It would not be possible to simply close Alma school without making alternative arrangements. By amalgamating it into an enlarged St James CE School, it therefore provides places for all the current pupils at Alma.
17. The increasing pressure for places across the borough is being met by the provision of bulge classes at a number of primary schools across the borough, including at Alma school. It will be possible to provide a bulge class for the newly amalgamated school within the existing accommodation. St James CE and Alma have both filled up at reception this year and both schools were oversubscribed (based on all their preferences) for September 2011.
18. The bulge class at Alma school in September 2011 supports the Council's commitment to ensure that there are sufficient primary places for local children. It will also bring additional resources to the amalgamated school and mean that more parents obtain a place at a school of choice.
19. The permanent enlargement of St James CE will therefore see the expansion of a successful and popular school, which has very good performance, is oversubscribed at first preference and is an outstanding school.

Admissions policy

20. As confirmed above the governing body of St James sets its own admissions criteria and has agreed that the enlarged school would offer community places as well as denominational ones.
21. The newly amalgamated school would come into operation in September 2011 after the 2011/12 admissions round has been completed therefore places have been allocated on the basis of the current criteria.

Impact on the community and travel

22. Maintaining access to extended services in the area has been considered. The amalgamated school will provide improved extended services. The amalgamated school will also continue to play its part in achieving local community cohesion.

Travel and accessibility for all

23. The amalgamation would not unreasonably extend journey times or increase transport costs. It is proposed there will be a walking bus between the two school sites.

Funding the costs of amalgamation

24. The St James' governing body agreed to proceed with the statutory notice stage of the process on the basis that there are certain financial costs associated with the amalgamation that should be met by the authority. These include the Council agreeing to underwrite expenses incurred in respect of removal costs and redundancy costs incurred in January 2012 as a result of the new staffing

structure. In addition the governing body want the authority to carry out any necessary building works to the Alma building.

25. The Local Authority will consider whether they are able to meet the redundancy costs at the Support for Schools in Difficulty Panel. This process requires the production of a robust business case and the school having followed an agreed re-organisation procedure and is subject to available resources and the schools financial position. It would be possible to meet the costs of removals from current revenue budgets.
26. The necessary building works include refurbishing the kitchen and ground floor toilets, works to fire doors and the heating, easing windows, some internal redecoration and works to the entrance. These works have been identified by the school as a result of an inspection report. It is proposed that the urgent health and safety works, such as refurbishing the kitchen, toilets and fire doors, are carried out as soon as possible. The capital resources would be found from future capital resources which are the subject of the capital report considered by Cabinet on 21 June.

Community impact statement

27. An Equality Impact Assessment has been carried out. Both schools serve an area of deprivation. Amalgamating St James with Alma by enlarging St James and closing Alma will enable more pupils in the local community to benefit from the improved standards at an outstanding school, which will offer both denominational and more community places than are currently available.

Views of interested parties

28. In carrying out the initial consultation process in March 2011 on the amalgamation of Alma with St James by the closure of Alma school and the enlargement of St James CE from 1 to 2 FE, letters were sent to the following education stakeholders: parents and carers of pupils and staff at both schools, Headteachers and chairs of governors of all Southwark schools, Councillors, local MPs, the Southwark Diocesan Board and Commission, trade unions and Directors of neighbouring authorities.
29. Meetings for parents and carers and staff to discuss the proposal were held in March 2011 at both schools.
30. The outcome of the initial consultation in March 2011 is included in Appendix 1 with officer comments in response to the issues raised. There were more responses to the initial consultation in favour from the two school communities than against the amalgamation.
31. The responses to the statutory notice (published in May for consultation until 24 June 2011) include one from a St James CE parent who is opposed to the proposed amalgamation, and has requested a referendum of parents on the issue as he felt that the St James' parents were opposed to the amalgamation and that the initial consultation had not given the opportunity for this to be demonstrated. He also asked whether other alternatives were considered, such as the closure of Alma, providing a new headteacher, making it into an academy or phasing the enlargement of St James. He feels that the amalgamation will be a retrograde step as far as St James is concerned and would have an adverse effect on the pupils at an important time in their educational development.

32. In response, all parents were given the opportunity to comment on the proposed amalgamation as letters were sent to every home. There were a considerable number of responses, from parents from both schools. Of the total of 86 responses to the initial consultation 64 (74%) were in favour of the amalgamation. Of this total 77 responses were from the two schools, Alma and St James, community of parents, staff and governors. 56 responses from the two schools (73%) were in favour of amalgamation. Alternatives were considered as detailed in paragraph 12 above. The provision of a new headteacher would not meet the DfE requirement that the Council make arrangements to deal with the failing Alma school as soon as possible. Phasing the enlargement of St James would mean that Alma would have to remain open, as there would not be room for the displaced pupils from the older age groups in other schools in the area. Every effort is being and will be made to ensure that the proposed amalgamation does not have any adverse effect on pupils at both schools.
33. A second response has been received in support of the proposed amalgamation from the vice chair of the St James' governing body who is also chair of the Alma governing body. He confirms that the consultation process has been rigorous and exhaustive and that the schools have done everything possible to listen to concerns and implement suggestions where possible. His overwhelming impression is that the majority of parents and children are in favour of the proposals and that only a very small minority are opposed because of the impact unsettling their children but not against the principle. The impact of the executive headteacher and her team on Standards at Alma since September was judged by a lead HMI Inspector on 25 May 2011 as making 'good progress'. Continuous monitoring at St James shows that the school continues to provide an outstanding education for all its children, which the vice-chair has every confidence will be continued in the amalgamated school.
34. The vice-chair confirms both schools will gain from the proposed amalgamation as the St James site is very cramped and cannot be easily expanded. Combining the KS2 of both schools on the Alma site enables both schools to take advantage of the spare space available at the Alma site. Conversely the younger children at KS1 can then expand on the St James site and more facilities suitable for their age group can be provided.
35. Two forms of entry allow much more pupil interaction and help children to make easier transition to secondary school. Economies of scale will free up finances to provide more specialist teachers in sport, music, drama and the arts and further enrich the curriculum.
36. Staff at Alma will work alongside the outstanding team at St James thus expanding their capacity and professional capability. For all these reasons the amalgamation will greatly benefit the children at both schools.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

Cabinet is advised to agree the recommendation contained in the statutory notice and amalgamate Alma Primary School with St James CE Primary School, by the closure of the former and expansion of the latter.

Legislative basis

37. The Local Authority has school reorganisation duties enabled by the Education and Inspections Act 2006 and inserted into the Education Act 1996. The Local Authority is therefore enabled to effect changes to schools in its area. The regulatory provision governing school expansion is found in the School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2007 and the regulatory provision governing school closure is found in the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007.
38. The Local Authority has a statutory duty under s.14 Education Act 1996 to ensure there is sufficient primary provision and suitable special educational needs provision available in Southwark.
39. Alma Primary School is a community school and the Local Authority may determine proposals to close the school. St. James CE School is a voluntary aided school and its Governing Body (or the LA) may determine proposals to expand the school by enlargement. Proposals involving the closure of school and amalgamation with a more successful and popular school are normally likely to be approved subject to the LA providing sound educational evidence to Cabinet as the decision maker.
40. A consultation process has taken place, following which the Lead Member for Children's Services agreed to publish the statutory notice to close Alma Primary School and enlarge St James CE Primary School. The proposals are related to each other and therefore there was a 6 week period for representations to be made.
41. All Cabinet members in making the final decision, must take into account, the guidance "Closing a Maintained Mainstream School – A Guide for Local Authorities and Governing Bodies" updated 1 February 2010. In respect of the proposal to expand St James' CE School by enlargement, Cabinet must take into account the guidance "Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form" updated 1 February 2010. In particular, Cabinet must have regard to the statutory decision makers guidance which is set out in Stage 4 of each of the afore mentioned guidances, and copies must be made available to Cabinet Members for consideration.
42. Cabinet may reject, approve or approve the proposals with a modification or condition. A decision must be made within 2 months of the end of the representation period, and if not the decision must be referred immediately to the Office of the Schools Adjudicator.
43. If Cabinet is minded to approve the recommendation, it will effect the amalgamation from September 2011 and the proposals must be implemented by the published date. In consideration of the risk of judicial review Cabinet members are referred to the requirements of the statutory guidance and the need to ensure engagement with the views of stakeholders.
44. Cabinet is advised to note the equality implications arising from the Equality Impact Assessment in the Community Impact Statement above.

Property issues

45. The legislation for the provision of a the new site is contained in paragraph 4 of Part II of Schedule 3 to the School Standards and Framework Act 1998. This states than in the case of a voluntary aided school, the local education authority shall provide any new site which is to be provided in addition to or instead of the school's existing site. Where a site is provided, the local education authority is required to transfer their interest in the site and in any buildings on the site which are to form part of the school premises to the trustees of the school to be held by them on trust for the purposes of the school or if the school has no trustees to the school's foundation body to be held by that body for the relevant purposes. The Council is also required to pay the reasonable costs in connection with the transfer to the person to whom the transfer is made.
46. If work is required to be done for the purpose of clearing it or making it suitable for building purposes, the local education authority and the governing body may make an agreement providing for the making of such payments or of such other adjustments of their respective rights and liabilities as will secure that the cost of the work is borne by the authority. If there are buildings on site which are of value for the purposes of the school, the local education authority and the governing body may make an agreement providing for the making of such payments or of such other adjustments of their respective rights and liabilities.

Contract issues

47. Alma Primary School must review the contracts it has in place with suppliers and consider whether the contracts may need to be aligned with ones St James has in place.

Employment issues

48. The amalgamation of the two schools will be a transfer of undertaking as defined by the TUPE Regulations 2006.
49. The TUPE Regulations provide guidance on the steps that employers will need to take in exchanging employee information and consultation of staff. The employers include the Council, St James' Governing Body and any contractors engaged by them to deliver services such as cleaning. There are legal penalties for not complying with the TUPE Regulations in this respect. The Governing Body of St James and its contractors are separate legal entities to the Council and will become the new employers for transferring Alma staff.
50. At the time of the transfer, the Council's rights, powers, duties and liabilities in relation to the terms and conditions and contracts of employment of Alma' staff will transfer to the Governing Body of St James' school or their contractor/s.
51. There may be a surplus of staff for the expanded school's requirement following the transfer. All staff of both schools will have protection under the TUPE Regulations from changes to their terms and conditions of dismissal as a result of the transfer. However employees could be dismissed if the reason or principal reason (before or after the transfer) is the transfer, or for a reason connected with the transfer unless that reason for the dismissal is an economic, technical, or organisational one and the reason for the dismissal entails changes in the workforce.

52. In the event that St James and or any contractor envisages the need to reorganise or restructure the amalgamated workforce they will need to declare these as “measures” under the TUPE Regulations.
53. Any dismissals, whether following a transfer or reorganisation or not, need to be procedurally fair in all cases to prevent either the Council and/or the Governing Body and/ or their contractors being liable for automatic or normal unfair dismissal claims.
54. The transfer of council employees must be conducted and managed under the Council's TUPE policy and procedure to minimise the risk of claims in the Employment Tribunal being brought by the affected employees.
55. Further, the Council's Reorganisation, Redeployment and Redundancy Policy and Procedure must be applied, in so far as is practicably possible, to any post transfer reorganisation of the transferring Council employees.

Departmental Finance Manager CS0126A

56. Schools are currently funded by the Dedicated Schools Grant (DSG), which the local authority receives based on the number of pupils present at the January count. The level of DSG will be the same, as this is will not be affected by amalgamation. When Alma school closes, any outstanding balance held by the school would be transferred to the Local Authority, whether these balances are positive or negative as set out in the Scheme for Financing Schools. Alma reported a small surplus as at the end of 2010-11. Where schools are amalgamated it is for the Authority to decide what happens with remaining balances.
57. When the two schools amalgamate their budget will reduce - a single school will only attract single lump sum elements within the formula funding and grants. However, in turn the school benefits from economies of scale such as single management structure. To support the school through this transition the Southwark policy is to provide the amalgamated school with a double lump sum (within the formula) in the first year post amalgamation.
58. For any school that is restructuring, there is a process in place to provide financial support for the costs of school restructures via the Schools in Difficulty panel; these are considered on a case by case basis and costs are shared by the schools and DSG budget allocated for this purpose.
59. Capital works of £300,000 has been included in the proposed Children's Services 2011/12 capital programme in the capital report considered by Cabinet on 21 June and Assembly on 6 July.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Statutory Notice to close Alma Primary School and expand St James CE Primary School	160 Tooley Street, London SE1 2QH	Martin Wilcox 020 7525 5018
DfE Regulations and Guidelines	160 Tooley Street, London SE1 2QH	Martin Wilcox 020 7525 5018
Expanding a Maintained Mainstream School by Enlargement or Adding Sixth Form – Guidance dated 1.2.10	Guidance will be provided to Cabinet Members	Martin Wilcox 020 7525 5018
Closing a Maintained Mainstream School – Guidance dated 1.2.10	Guidance will be provided to Cabinet Members	Martin Wilcox 020 7525 5018
Equality Impact Assessment	160 Tooley Street, London SE1 2QH	Martin Wilcox 020 7525 5018

APPENDICES

No.	Title
Appendix 1	Responses to the initial consultation process carried out in March 2011

AUDIT TRAIL

Cabinet Member	Councillor Catherine McDonald, Children's Services	
Lead Officer	Pauline Armour, Assistant Director of Children's Services	
Report Author	Martin Wilcox, Education Planning Officer	
Version	Final	
Dated	7 July 2011	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	7 July 2011	