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26 March 2009

Dear Simon

Thank you for your application, received on 5 March 2009, for consent to publish proposals under section 10 of the Education and Inspections Act 2006 (EIA 2006), to replace Fleetdown Infant and Junior community schools with a new Primary school, on 1 January 2010.

The Secretary of State has considered the application very carefully and in exercising the powers conferred on him by section 10 of the EIA 2006, for reasons explained below, has decided to grant consent to publish the proposals for a new 4-11 community primary school.

Section 10 of the EIA 2006 does not constrain the exercise of the Secretary of State's discretion when determining applications for consent to publish proposals for new schools without holding a competition. This is subject, of course, to the usual public law principles of reasonableness, rationality and procedural fairness.

Part B of the Department's guide "Establishing a New Maintained Mainstream School" states that a competition, as provided for by section 7 of the EIA 2006 and the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007, is expected to be the usual route by which most new schools will be established. However, the guide also confirms that Ministers have indicated, during debates in Parliament, that they may be prepared to give consent, to publish without a competition, where the proposals are for the amalgamation of an infant and junior school.

Accordingly, the Secretary of State has looked very carefully at your application and in determining whether there is good reason to depart from the principle that a competition should normally be held, has considered the criteria as set out in paragraphs 9-10 of Part B of the guide. His conclusions are as follows:

1. The contribution the school would make to the levels of local diversity

The Secretary of State recognises the wish of Kent LA to bring a unity of leadership and good practice across the two key stages, by creating a new community Primary School. He notes that the proposal will not increase local diversity of provision or parental choice.

2. Views of interested parties

It is noted that the Governing Bodies of both schools have been actively involved with this proposal. Initial consultation with parents and the learning community has been positive, and that both headteachers are retiring in December 2009.

3. The prospect of other proposer interest

The Secretary of State understands that potential proposers, including both Church diocese and community and parish groups were included in the public consultation document mailing, but no representations were received from potential sponsors.

4. Local standards

Both existing schools are currently demonstrating above average standards and good pupil progress. The Secretary of State expects that the establishment of a new primary school will continue to build on the best practice and strengths of the predecessor schools.

In summary, taking into account all the above factors, and the fact that Ministers have previously indicated they would be prepared to give consent in such cases, the Secretary of State accepts that holding a competition would not be appropriate in the particular circumstances of this application.

You may now proceed to follow the statutory process as set out in section 10 of the EIA 2006. Further guidance and information is available on the Department's website www.dcsf.gov.uk/schoolorg .

I must emphasise that this consent does not provide approval for the establishment of the new school that you propose. The final decision on your proposals will be a matter for the Schools Adjudicator.

If you wish to discuss this letter further please do not hesitate to contact me as above.

Yours sincerely

Lynne Pape