

Appendix 4

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Dear John

Thank you for your application, received on 28 July 2009, for consent to publish proposals under section 10 of the Education and Inspections Act 2006 (EIA 2006), to replace Bewley Infant and Junior Schools with a new primary school, on 1 September 2011.

The Department has considered the application very carefully and in exercising the powers conferred by section 10 of the EIA 2006, for reasons explained below, has decided to grant consent to publish the proposals for a new 3-11 community primary school.

Section 10 of the EIA 2006 does not constrain the exercise of the Department'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 Department 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. The Department's conclusions are as follows:

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

The Department recognises the wishes of Stockton-on-Tees LA to bring continuity and good practice across the two key stages, by creating a new community Primary School. The Department notes that the proposal will not increase local diversity of provision or parental choice.

2. Views of interested parties

Initial stages of consultation have been carried out with parents, staff and governors with the general consensus being that they are in favour of the proposals. It is understood that statutory consultation will take place once exemption approval is granted.

3. The prospect of other proposer interest

The Department notes that the LA approached the RC and C of E dioceses direct and included a statement in the consultation document to give groups, or, organisations the opportunity to register an interest in establishing a new school in a competition, but no expressions of interest were received from potential proposers.

4. Local standards

The new school should improve standards by providing enhanced opportunities and achievement through access to a wider range of professional development and support, better facilities and increased opportunities for all pupils. The Department 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 Department 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

Cath Brown