

## LONDON BOROUGH OF BRENT

### EXECUTIVE MEETING 14 SEPTEMBER 2004

FROM THE DIRECTOR OF EDUCATION, ARTS & LIBRARIES

NAME OF WARD(S)  
ALL

**REPORT TITLE: PROPOSALS FOR CREATING A NEW VOLUNTARY AIDED  
MUSLIM PRIMARY SCHOOL AND A NEW VOLUNTARY AIDED  
JEWISH HIGH SCHOOL**

FP Ref: -EAL-04/05-0046

#### **1.0 SUMMARY**

- 1.1 This report informs Members of a proposal for a new Muslim VA Primary School on the site of the current independent school, The Avenue Primary School, 5 The Avenue, London, NW6 7YG. (*The Proposer is the Trustee of the school, 'FED 2000' – Federation for Educational Development*). Since the Proposer started formal consultation, as required by statute, the LEA has learnt that neither the DfES nor the ODPM will guarantee the necessary increase in the level of its Revenue Support Grant for 2005/2006.
- 1.2 This funding issue will also affect the application of Menorah High School, which is going through the same process and has already gained provisional Council support to become VA in April 2005.

#### **2.0 RECOMMENDATIONS**

- 2.1 That Members consider the following options and agree which to adopt:
- 2.1.1 To support the application of the Proposers to establish a new Muslim Voluntary Aided School in Brent on 1<sup>st</sup> April 2005 and confirm support for the Menorah High School application for the establishment of a new Voluntary Aided Jewish High School from the same date. (This would require additional funding to be identified from general Council resources).
- 2.1.2 To support the applications from both schools provided DfES permission is sought and received to recover the extra money from “under passporting” – i.e. by reducing funding allocated to existing maintained schools in order to meet the additional cost of the new schools.
- 2.1.3 To inform the schools that the Council is unable to approve their applications for 2005/2006 due to the detrimental impact of such a decision on the existing maintained schools and the Council's overall financial position.

- 2.1.4 Decide not to agree the Avenue application regardless of the funding issues (this would not be consistent with the decisions already made in respect of Menorah and other faith school applications in the past).
- 2.2 That if option 2.1.1 is agreed Members identify the necessary additional funding.
- 2.3 That if option 2.1.3 is agreed, Members agree that the schools in question be encouraged to re-submit their applications for VA status in 2005/2006 for a commencement date of 1<sup>st</sup> April 2006.
- 2.4 The Executive formally adopts the policy that although applications for VA status from faith schools are welcome, they will normally only be agreed to if there is no disadvantage financially to the Council or other Brent schools.
- 2.5 That member's decision in respect of each of these applications be referred to the SOC.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 Based on the 2004/2005 level of funding, the Budget Share for The Avenue School would be in the region of £650,000. This would be a charge against the EAL budget. Additional Schools Formula Spending Share (SFSS) might be forthcoming which – if translated into additional Revenue Support Grant (RSG) - would be expected to offset this cost once the pupils in the new school formed part of the PLASC returns in January, but this would take at least a year after the school had been established as VA. They would appear for the first time in the Brent PLASC return in January 2005, resulting in possible increased RSG in 2006/2007. In order to overcome this difficulty, the DfES has been requested to allow the LEA to treat the school's pupils as Brent pupils for January 2004 in order to gain SFSS for 2005/06.
- 3.2 However, this is only part of the requirement in order to avoid financial disadvantage to either the Council or the other maintained schools. The council is required to pass on to its schools the full increase in its Schools FSS each year. In this case, we could expect roughly the same increase in SFSS as the budget share for the school. SFSS is not money, however, and if the pupils were treated simply as new then Brent would not receive full compensation through the grant system for the increased costs. Indeed, if we are at the grant ceiling then we would receive no extra funding at all.
- 3.3 The most obvious solution would be to include the additional pupils in our baseline for 2004/2005 i.e. to assume that we were responsible for the schools this year. The extra SFSS would then not be counted as a gain for Brent and would not be subject to the ceiling or any scaling back.
- 3.4 We have asked ODPM and DfES to treat both The Avenue and Menorah schools in this way, but they have refused our request on the basis that this has not been done before and therefore there is no precedent for such an approval. The DfES turned down an identical case last year in Wandsworth.

3.5 We therefore have three options:

- Support the applications and if we do not receive enough additional RSG to meet the schools' budget requirements then meet the shortfall from council tax or savings elsewhere.
- Ask the DfES for permission to under-passport to the extent of the RSG shortfall. This would mean the cost of the extra budget requirement for the two schools being shared by all maintained schools as a reduction in their budgets.
- Reject the proposals on the grounds of the detrimental impact on both the other schools and the Council's overall financial position. The new schools funding regime should, however, allow both schools to become VA from 2006-07, and the application could be recommended next year.

3.6 The Avenue School currently does not meet minimum accommodation standards. The school applied for funding in the 2003/2004 Targeted Capital Round from the DfES and conditionally received £3.4m.

3.7 The new school would be funded under the Brent LEA devolved funding formula and would apply for capital grants under extant terms and conditions. The Proposers are confident that current levels of LEA funding would be sufficient.

3.8 Payment of capital grant would be required to implement any proposals. Applications would be made and the outcome established prior to formal publication. After incorporation the Governors would seek grant under extant regulations to improve provision. The Governing Body would bear responsibility for 10% of all capital expenditure associated with the site. The DfES would assume responsibility for the remaining 90%. The LEA would be responsible for provision of revenue funding through the Devolved Funding Formula to enable the school to perform its functions.

3.9 There would be an additional cost to the School Improvement Service and other officers. A link adviser would need to be provided for the school and the Trustees would need additional training. There are weaknesses in curriculum coverage, curriculum leadership, assessment of standards and provision for pupils with SEN. As a result the School Improvement Service would have to provide extra support if the school is to reach the standards expected in voluntary aided schools in all these areas.

#### **4.0 STAFFING IMPLICATIONS**

4.1 In a maintained voluntary aided school, such as the proposed new Muslim primary school, it is the Governing Body of the school that is the employer of all staff with full rights over their hiring, conduct, discipline and dismissal in accordance with employment law, although staff costs are funded by the authority through the school's delegated budget.

- 4.2 While this is an additional (small) primary school coming over into the maintained group of schools, it is not envisaged that there will be any need to increase staff at Brent LEA level.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 The application must be approved by the DfES, the LEA and the School Organisation Committee (SOC) - the latter making the final decision.
- 5.2 There are currently 1463 surplus places in maintained JMI schools within a 2 mile radius of the proposed new The Avenue School. Of these surplus places 537 are in voluntary aided schools. Because the Avenue School already exists and has a full intake of pupils, it is not expected that the granting of VA status will have any significant impact on either the overall number of surplus places or on the intake to neighbouring schools.
- 5.3 Protocol No 1 Article 2 of the European Convention on Human Rights, which is incorporated directly into UK law by the Human Rights Act, requires that the State respect the right of parents to ensure the teaching of their children in conformity with their own religious and philosophical convictions. Though this right only needs to be applied so far as it is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.
- 5.4 The occupation and use of the premises of a voluntary aided school, whether in or out of normal school hours, is under the control of the Governing Body of the school. The school buildings are usually owned by the trustees. Up to 90% (previously 85%) of the cost of providing school premises and repairs and alterations to school buildings may be provided by a grant from the Secretary of State with the Governing Body providing the remainder.
- 5.5 The Council, as represented by the members of the Council on the SOC, is one of 6 groups represented. The SOC will make its own decision on the proposals but the Council (or any other of the groups) will be able to veto a proposal. If a proposal to establish a school is blocked by a veto the proposal is referred to the Office of the School Adjudicator and the appointed adjudicator will make the decision on the proposal.

## **6.0 DETAIL**

- 6.1 The Avenue School is an independent, fee-paying, Muslim community primary school with 157 pupils.
- 6.2 The Avenue School is located in Kilburn. The majority of the pupils are drawn from a London-wide catchment area with a proportion travelling from great distances due to the lack of denominational choice for Muslim parents elsewhere. The socio-economic status of the families varies.
- 6.3 The Proposers seek to establish a voluntary aided primary school for 5 – 11 year old boys and girls. The school would be inclusive and a proportion of places would be made available to non-Islamic children. The initial aim is to grow to a 1 FE

establishment. Pupil growth would be matched to available accommodation and capital to allow such growth would be applied for in competition with other VA schools within the LEA.

- 6.4 The school has successfully received an offer of £3.4m from the DfES for VA capital funding on the understanding that it is subject to the decision of the Council and the SOC as to whether to support the application for VA status.
- 6.5 Any decision to grant voluntary aided status to The Avenue School will be referred to the SOC who will make their decision after taking account the views of the Executive. The SOC cannot over rule the Executive. Since April 1999 the SOC has taken the place of the Secretary of State in the local decision making process on school organisation proposals. The SOC consists of six groups - Local Councillors, Governors, London Diocese covering the Church of England schools, Westminster Diocese covering Roman Catholic Schools, Other Faith Communities and the Learning Skills Council.
- 6.6 On 21 July 2003 a report went to the Executive recommending Members to support the application of (the Trustees of) Menorah High School for Girls to establish a new Jewish Voluntary Aided School in Brent on 1<sup>st</sup> April 2005, as long as the Council does not incur additional costs as a result of the transitional period on the 'floors and ceiling mechanism' of the Local Government Funding system as highlighted in this report under 3.0 Financial Implications. In November 2003 the SOC approved the Members' decision to support the application on this basis. However, the DfES decision referred to in 3.6 means that the condition applied to the approval by both the Executive and the SOC has not been met, and the decision needs to be reconsidered in the light of this.
- 6.7 If Members do not agree the proposals for 2005/2006, the schools could be invited to re-submit their applications for VA status in 2005/2006 for 2006/2007 when there are likely to be significant changes to school funding which would change the position set out in this report.

## **7.0 DIVERSITY ISSUES**

- 7.1 The DfES is actively encouraging LEAs to grant more faith schools voluntary aided status.
- 7.2 The Avenue is a mixed gender Muslim school.
- 7.3 Islamia Primary School became a voluntary aided school in April 1999. The Avenue School will provide a wider choice of non fee-paying schools for Muslim pupils in Brent.
- 7.4 In line with data analysis conducted on all Brent schools, attainments by boys and girls in different ethnic groups will be monitored. Furthermore, ethnic and gender monitoring of all school teaching and non-teaching staff will take place annually. Extensions to this, to bring the information gathered in line with Brent's Corporate Equalities Policy, will occur subject to changes in the law and exemptions granted to faith based organisations.

7.5 Approval to option 2.1.2 would reduce funding to all other Brent schools, including the existing VA schools that also serve the Jewish and Muslim communities.

## **8.0 BACKGROUND INFORMATION**

The following papers were used in the compilation of this report:-

- i) A Consultation Paper from the Trustees of FED 2000 (The Proposers) for the establishment of a new Muslim VA Primary School

Any person wishing to inspect the above papers should contact  
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