

## **DETERMINATION**

**Case reference:** STP000475

**Proposal:** To increase the upper age limit of the pupils served by Houghton Kepier Sports College from 16 to 19 by establishing a sixth form.

**Proposer:** The Governing Body of Houghton Kepier Sports College

**Objector:** Sunderland City Council

**Date of Determination:** 2nd March 2010

### **Determination**

**Under the powers conferred on me in section 21 of the Education and Inspections Act 2006 and the Regulations made thereunder I hereby reject the proposal.**

### **The referral**

1. On 21<sup>st</sup> December 2009, Sunderland City Council's Assistant Chief Solicitor wrote to the Office of the Schools Adjudicator (OSA), on behalf of the Council (the Council). This followed a request to the Council by the Governing Body of Houghton Kepier Sports College (the College), in a letter dated 14<sup>th</sup> December 2009, to refer the Council's decision to reject the Governor's proposal to increase the upper age limit served by the College from 1<sup>st</sup> September 2010.

### **Jurisdiction**

2. On 11<sup>th</sup> September 2009, having carried out the appropriate consultation, the proposer formally published the proposal. The notice was in the form required by the Education and Inspections Act 2006 (the Act) and the Regulations made thereunder the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (the Regulations).

3. The proposal was considered by the Council at a meeting of the School Organisation Committee of the Cabinet on 4<sup>th</sup> December 2009. At this meeting the Committee resolved to reject the proposal. The College were duly informed of this decision in a letter dated 10<sup>th</sup> December 2009. On 14<sup>th</sup> December 2009, the Chair of the Governing Body asked that the matter be referred to the adjudicator within the prescribed timescale. The Council did as requested in their letter to the OSA dated 21<sup>st</sup> December 2009.

4. I am satisfied that this proposal has been properly referred to me in accordance with the Act and Regulations and that, therefore, I have jurisdiction to determine this matter.

### **Procedures**

5. In considering this matter I have had regard to all relevant legislation and guidance. I have considered all the papers put before me including the following:

- the agenda and supporting papers for the meeting of the Council's School Organisation Committee of Council held on 4<sup>th</sup> December 2009;
- prescribed information from the proposer as set out in the relevant School Organisation Regulations;
- copies of objections received after publication of the proposals;
- the proposer's response to the objections and comments received;
- the views and information submitted by interested parties;
- comments made by the proposer in response to the objection;
- the Ofsted report on the School following the inspection in January 2009;
- the report of the Ofsted Annual Assessment Visit to Sunderland College of July 2007 and HMI feedback following the Ofsted inspection of this College in January 2010;
- the Audit Commission Area Assessment Report on Sunderland City Council of December 2009;
- data from the DCSF secondary school performance tables.

6. On 3<sup>rd</sup> February I visited the College to view at first hand the accommodation and locality. On the same day I held meetings with pupils at the school, with representatives of the College and the objectors and with the general public (attended by over 200 people). I have considered information and the representations put to me at that meeting and subsequently.

### **The Proposal**

7. The proposal is to increase the age range served by the College from 16 to 19 by establishing a sixth form. This is a long standing aspiration of the College. The proposed admission number for year 12 is 100 and the proposed capacity for the sixth form is 200. The proposer contends that the potential benefits of this proposal are to:

- Provide first class post 16 provision at the College.
- Meet parental wishes.

- Increase the diversity of post 16 provision in the local area.
  - Raise learner aspirations to continue into further and higher education.
  - Provide outstanding pastoral support to assist post 16 learners in achieving their potential.
  - Reduce the percentage of learners who are not in education, employment or training.
  - Increase numbers of young people from low income backgrounds progressing into post 16 provision and then to higher education.
8. The Council rejected the proposals for the following reasons
- The strong objection to the proposals by the Learning and Skills Council (LSC), the City of Sunderland College, a number of neighbouring schools, and the local 14-19 Partnership.
  - The fact that strong partnership working across the secondary sector exists in Sunderland which provides high standards, sustainable provision and diversity and choice.
9. More specifically, the Council stated the following reasons for their decision.
- It is not evident how the proposals would further raise standards, including for learners with special educational needs (SEN).
  - Concerns about the viability of the proposed curriculum offer and whether it would increase choice for pupils.
  - The proposal would lead to duplication of provision, particularly in relation to Headways College sixth form, and that such duplication could eventually jeopardise choice.
  - The free transport available from Houghton le Spring to Headways College removes barriers to participation.
  - The proposal does not offer anything that does not already exist in the established local 14-19 partnership.
  - The College should join in with local collaborative arrangements.

## **Background**

10. The College is a Foundation Trust school serving 1,171 11 – 16 year old boys and girls in Houghton-le-Spring in the City of Sunderland area. The College has an admission number of 225 and a net capacity of 1,368 with plans under this proposal to increase this to 1,548. The College was awarded specialist sports college status in 2003, became a Foundation School in 2006 and in December 2008 acquired a Trust. The College states that a key driver for establishing the Trust was to support its aspiration to open a sixth form.

11. To support the proposal the College employed a firm of management consultants who produced a feasibility report dated June 2009. The executive summary of the report states that the College has a long term ambition to deliver sixth form education.

12. Within Sunderland, a local 14 -19 partnership is well established and enjoys the support of local secondary schools, City of Sunderland College, the LSC, and the Council. The College was an active member of this partnership at its inception but, according to a College statement submitted to the School Organisation Committee of Cabinet on 4<sup>th</sup> December 2009, "*This collaboration ceased when the Local Authority made it clear that an alternative to the Sunderland Model was not negotiable.*" Minutes of the local sixth form partnership record a reluctance on the part of the College to play a full role in the partnership's work.

### **Consideration of Factors**

13. I have considered the proposal afresh taking careful account of the arguments put to me by the proposer, the Council and other interested parties as well as the DCSF's Decision Makers' Guidance on Expanding a Maintained Mainstream School.

### **Effect on Standards and School Improvement**

14. The Government wishes to create a system of diverse types of school which is shaped by parents and which enables the best schools to expand. The College has provided evidence that its proposal has the support of 220 members of its parent body with only one parent against. This view was echoed by parents who attended the public meeting. Clearly, the proposal enjoys parental support.

15. The proposal would add to the diversity of type of provision in the local area by creating the only non-denominational school sixth form in Sunderland. However, the objectors point out that diversity of provision for this age group should focus more on choice of curriculum offer rather than solely choice of type of institution. This seems reasonable. Some objectors are concerned that the pupils who would attend post 16 provision in the College would have a reduced choice in terms of courses available. I must assume that any pupils who might choose to stay at the College do so because the courses on offer are attractive to them. Much will depend on the quality of information, guidance and advice available to them. In this respect, I note mixed evidence as follows;

- the 2009 Ofsted inspection finding that the College's "*guiding and tracking process is sometimes not used fully to assist students to make the most appropriate option choices in Key Stage 4*".
- The fact that the College has been awarded the local Gold 14 -19 Quality Mark for Information Advice and Guidance.

Objectors believe that separate provision at the College might reduce choice elsewhere, but, given the obvious strength of the local 14 -19 Partnership, I am not persuaded by this argument.

16. The Government envisage that a more diverse school system will meet the aspirations of parents, help raise local standards and narrow attainment gaps. Diversity of school type is therefore a means to an end rather than an end in itself. The key policy objective of the Government is to improve standards for all pupils.

17. The College was last inspected by Ofsted in January 2009. Inspectors found it to be a good school with good capacity to improve. Whilst pupils made good progress, overall standards were graded as satisfactory. Nationally, the 2008/9 report of Her Majesty's Chief Inspector (HMCI) reported that 69% of English secondary schools were good or outstanding, with 19% achieving the latter grade. The Ofsted grade for overall standards at the College was, according to the same HMCI report, bettered by 62% of English secondary schools.

18. The College's GCSE results (in terms of the proportion of pupils gaining five or more A\*-C grades including mathematics and English) have improved in recent years from 28% (2006), to 37% (2007 and 2008), and to 45% in 2009. The 2009 figure places the College in line with the overall figure for City of Sunderland whilst still somewhat below the figure of 50.7% for all maintained secondary schools in England. The Government also publishes a measure of the value added to a pupil's progress from the end of key stage 2 to GCSE for each secondary school. The average figure for England is deemed to be 1000. On this measure, the College scored 983 in 2009, the 14<sup>th</sup> lowest out of the 16 secondary schools in Sunderland.

19. A key objective of the College's proposal is to reduce the number of local young people not in education, employment or training (NEET). This group is usually made up of pupils who do not succeed at school. The 2009 DCSF performance tables show that some 9% of the College's pupils did not achieve 5 or more GCSE grades A-G (the national threshold for level one qualifications). Data about College leavers from the local Connexions Service shows that a similar proportion of leavers entered the NEET category.

20. The College believe that they can better meet the needs of this group by providing local courses tailored to their needs and based on their knowledge of the individuals concerned. There is no detailed analysis of what these needs are or how provision at the College will meet the needs of this group. I also note the feedback from the January 2010 Sunderland College (the destination to which two thirds of College leavers currently transfer at 16) Ofsted inspection which found that preparation for life and work courses aimed at, among others, NEET were judged to be outstanding. The Audit Commission Area Assessment of December 2009 reported that "*targeted work with vulnerable groups including young people leaving care and young offenders has increased the number from these groups in employment, education or training to well above national averages.*"

21. The pupil performance data and the Ofsted inspection findings do not suggest that the College can be classified as amongst the “best schools” which are those the Government wish to expand. There is certainly good evidence of improvement and the capacity to improve further, but this potential has yet to be fully realised. This is a key consideration given that the College has, quite rightly, placed its wish to boost standards at the heart of its proposals. DCSF Guidance states that “*high performing 11-16 schools should be allowed to add post-16 provision*”. Although high performance is not defined, the evidence presented above suggests that, as yet, this label cannot be attached to the College. Indeed, the College does not suggest this itself. No evidence has been presented to me about the strategies the College intends to use to achieve the “high performing” category. In light of the evidence set out above I have concluded that the presumption that I should approve these proposals on the grounds that the College is an outstanding school does not apply in this case. This does not mean that I may not approve the proposals, should this be appropriate in all the circumstances; it means that I am not bound to take the presumption in favour of approval as my starting point.

22. The independent evidence about 14 – 19 partnership working in Sunderland is set out below.

- The Audit Commission Area Assessment of December 2009 found “*the shared sixth form model is an effective way of helping children and young people to take part in education and learning.*”
- Sunderland College is at the heart of this partnership with, in recent years, some two thirds of year 11 pupils at the College transferring to it. Notes from HMI feedback following the January 2010 Ofsted inspection of Sunderland College rated partnership working as outstanding and concluded that “*the college provides a range of courses, from entry level to degree level, in a number of settings to meet the needs of learners exceptionally well.*”
- In their letter of objection, the LSC note that “*participation rates have increased year on year.*”

23. The January 2010 inspection of Sunderland College found that outcomes for learners were good overall and outstanding in some curriculum areas. This evidence suggests that current arrangements for post 16 education work for the benefit of young people. However, in contrast to similar proposals elsewhere, a notable feature of both the proposal and the objections is a lack of detailed data on achievement patterns, progression routes and participation rates.

24. The Ofsted inspection found that the College made outstanding provision in relation to promoting healthy lifestyles and working in partnership to promote learner’s well being. The College’s provision in relation to staying safe, making a positive contribution to society, and to promoting future economic well being were all judged to be good. The College community believe that these features, and its overall provision for personal development and well being, will benefit the pupils who choose to remain at the College

post 16. Feedback from several ex-pupils of the College was critical of pastoral care in existing post 16 settings.

25. HMI feedback following the January 2010 inspection of Sunderland College found that *“learners receive good support overall and specialist support is excellent. Tutorial provision is very well organised and the programme of work is well designed”*. HMI also reported that students valued *“the level of support whilst at the college”* and found provision for safeguarding to be outstanding.

26. It is undoubtedly true that the College’s overall provision for pastoral care and support is good but the evidence suggests that this is also the case elsewhere.

27. I have concluded that the independent evidence on standards does not suggest that this proposal will boost standards and provide greater opportunities for young people in the area.

### **School Characteristics**

28. The College believe that their proposal will increase the number of young people from low income backgrounds who progress through 14 -19 education and into higher education whilst also reducing the number of learners not in education, employment or training. The existence of more local provision and reduced travel costs and time are seen as key factors in achieving this objective. No plans were made available to me to demonstrate how the educational needs of this group have been analysed or how the curriculum pathways on offer are being designed to meet the needs of these pupils. No mention is made, in the proposal or by objectors, to the possible differential impact of this proposal in relation to the gender, ethnic origin or other equal opportunity considerations.

### **Need for Places**

29. There is no evidence of the need for more places for 16 – 19 year old learners in the immediate area or in the Council area as a whole. Indeed, the evidence shows a recent pattern of falling rolls at the College and in the wider area. Even in such areas, the Government would support the expansion of successful and popular schools. DCSF Guidance does not give a single definition of what constitutes a definition of such a school but sets out (at para 4.31) indicators that should be taken into account. I have dealt with whether these descriptors apply to the College in para 21 above and have concluded that the evidence is mixed and that any presumption to approve expansion does not apply in this case. In these circumstances a more cogent case needs to be made for any further expansion of provision.

### **Admission Arrangements**

30. The College has not set out its proposed admission arrangements for entry into the sixth form. Whilst it is not legally required to do so at this stage, given the College’s objectives and proposed implementation date, the number on roll and the proposed sixth form admission number, the fact that it is

impossible for me to evaluate the impact of any proposed admission arrangements on the proposal's objectives, is a cause of concern.

31. Current figures for the year 11 cohort size and the sixth form's planned admission number suggest the proposal would only be able to cater for some 40% of the cohort. If demand is as high as the College envisage this would be likely to result in the application of the sixth form over-subscription criteria in the College's admission arrangements. As these do not yet exist it is impossible to judge their potential impact on the nature of the year 12 cohort in relation to the College's stated objective of meeting the needs of all young people in the area. Simple arithmetic shows they will not be able to meet the needs of all learners.

32. As a Foundation school, admission arrangements are the responsibility of the governing body who must ensure that consultation on the arrangements, and the contents of the arrangements, meet the statutory requirements of the School Admission Code. The College will also wish to ensure they are aligned with their objectives as set out in the proposal. I note that, in normal circumstances, admission arrangements for September 2010 should already have been determined. If I were to approve this proposal for September 2010 it would need to be conditional on the governing body gaining approval from the school adjudicator to a variation in admission arrangements necessitated by the major change of circumstances that the addition of a sixth form would result in.

### **Travel and Accessibility**

33. An attractive feature of the College's proposals for many parents and pupils is the prospect of reduced travelling time and associated cost savings. The local 14-19 partnership is aware of the need for affordable access to learning and has transport arrangements in place to support access to current provision across the Council, including a free daily bus service to the nearest sixth form college. Whilst there is legitimate and well articulated general concern amongst parents about these issues I have not been presented with any detailed evidence that shows the extent to which learner access to, and participation in, current provision is affected, one way or another, by transport, accessibility and cost issues.

34. The issue of travel time and cost has to be balanced against access to a young person's preferred choice of course. Individuals will resolve this in different ways, balancing accessibility, cost and course preference. Given that the College will not be able to make provision for all pupils and that the curriculum offer of the College is as yet undecided, it is impossible to know how many pupils and which groups of pupils will benefit from reduced travel should this proposal be approved. This is obviously an important issue for many parents and there is a need for a more thorough review of the extent to which travel time and costs affects participation and standards. However, given the evidence available, I do not believe that this issue should be decisive in my consideration of this proposal.

## **16-19 Provision**

35. Other secondary schools, City of Sunderland College, the Council and the LSC have all objected to the proposal on the ground that it will adversely impact on overall provision in the area which has been developed through the Sunderland 14-19 Partnership's implementation of the local 14-19 Area Development Plan. Key features of this plan are secondary schools remaining as 11-16 schools; four area based joint sixth forms; common timetabling; strong partnership working between the schools and Sunderland College to secure a wide curriculum offer with clear progression routes; joint governance arrangements; and the fact that the headteachers of the secondary schools are also associate principals of the FE college. The College sits outside these arrangements.

36. The most recently established joint sixth form (Headways) is in the area served by the College and it is the hope of the other two schools directly involved, and the Sunderland 14-19 Partnership, that the College will join them to develop shared provision in what is called locally the Coalfields area.

37. Paragraph 4.47 of the DCSF's Decision Makers' Guidance requires decision makers to look for evidence of local collaboration in drawing up the proposals and of how proposed new places will fit within the overall arrangements for 14-19 year olds in an area. The establishment of a new sixth form does not, in itself, have to compromise wider collaborative arrangements. However, in this case, the proposal has not been drawn up in collaboration with other providers and does not set out how the new provision would complement other local provision. There is no analysis of the wider curriculum planning context, whether the proposed range of courses would supplement or duplicate existing courses offered elsewhere, or how provision will be any different from that which already exists in the local joint sixth forms and Sunderland College (other than it being more locally provided). I believe that the absence of local collaboration in drawing up the proposal and the poor quality analysis of the match between current area wide provision, the proposed curriculum at the College and the needs of local young people are significant weaknesses.

## **Funding and Land**

38. The College has estimated that the capital costs of implementing this proposal to be £100k. The cost is low because of the possibility of re-using space freed up by falling rolls. All the planned work is internal and no planning permission is required. The College is able to fund this capital requirement from its own resource and, as a Foundation School, owns the site. The College proposes an integrated sixth form model where teaching and social spaces are distributed around the site rather than the establishment of a designated post 16 area. This has the advantage of minimising cost but also the disadvantage of making the creation of specialist, age-related facilities more difficult. This disadvantage is highlighted by some objectors and is a reasonable point. How a school determines it should meet the needs of its pupils is primarily a matter for the governing body and, provided they do so, the way they do it is generally a matter for themselves. Whilst I am satisfied that the capital resources to fund the necessary internal works as defined by

the College are available, I am concerned that, in early February, relatively little thought has been given to the precise nature and investment requirements of specialist facilities other than one science room and a hair and beauty salon. The College's planning documents refer more to general refurbishment needs rather than the development of specialist curriculum facilities.

39. Whilst the College is confident that it will be able to meet the additional revenue costs of the proposed provision, objectors are sceptical about the College's ability to resource the curriculum they describe in the medium term. They believe that it is inevitable that the College will have to reduce the suggested range of courses on offer to avoid subsidising the sixth form from resources currently allocated to provision in key stages 3 and 4. However, this is ultimately a matter for the governing body of the College and will be dependent on the College's ability to attract learners of all ages. I note that Ofsted judged the College to have "*sound finances*". At this stage, I do not think the issue of revenue resources should have a significant influence on my considerations.

### **Special Educational Needs (SEN) Provision**

40. The College does not have any specifically resourced provision for pupils with SEN and no new provision is planned as part of this proposal. At present, according to the Ofsted inspection report of 2009, the College has a higher than average proportion of pupils with learning difficulties and/or disabilities. They were found to make good progress, in line with their peers. Parents of pupils with SEN are very supportive of this proposal, particularly valuing the continuity of learning and relationships from 11-19 that it would provide. I have no evidence about the existing progression routes of former College pupils with SEN and am therefore unable to judge if their needs will be better met by this proposal. However, I note the January 2010 Ofsted inspection found that Sunderland College has a "*highly effective strategy to support learners acquisition of literacy and numeracy skills*" and that support for student's literacy, numeracy and language needs was judged to be outstanding.

### **Views of Interested parties**

41. The College engaged in an extensive consultation exercise about this proposal. Responses were received from 223 parents, virtually all of whom were supportive. The parents who attended the public meeting were unanimously in favour. Parents particularly valued the opportunity of their children to stay in a familiar local environment where they were known by teachers and at a College they have confidence in. They had a high opinion of the College's pastoral care; believed the proposal would promote continuity in learning; that it would obviate the need for transition at age 16; that friendship groups could remain intact; and that travel costs and time would be minimised. They also believed that local young people should be able to stay in their community for post 16 education. In this respect, they believed Houghton was being treated unequally to other local communities.

42. In a letter dated from the Chair of the College Governing Body to the Council dated 14<sup>th</sup> December 2009, the Chair expressed concern that the views of the objectors had been given more weight by the Council than those of parents, learners, staff and the local community. I have no doubt that parents support the College's plans and have given these views due weight in my consideration.

43. Pupils were also consulted with the College reporting 621 responses of which 70% were supportive. Pupils were able to articulate a wide range of advantages. They placed particular value on having more choice of provider; easier access to learning; reductions in the time and cost of travel; continued contact with teachers and friendship groups; and the ability to continuing to learn at a place they had confidence in until aged 19. They were also aware of some of the advantages of continuing their education elsewhere. It is, of course, hard to disagree with having more choice. The acid test would be the number of pupils who would actually choose to stay at the College and this remains unknown.

44. Consultations with staff showed that all were all in favour of the proposal which they believed would bring a wide range of benefits for learners and the local community. These included improved aspirations, standards and participation, especially for more vulnerable pupils. They also saw the proposal as a new opportunity for them to develop their professional skills and experience. Some objectors pointed out that extended professional experience could also be gained through the wider partnership arrangements in the area. I have no doubt that the staff are overwhelmingly in favour of the proposal.

45. The College's Trust partners supported the proposals whilst other secondary schools, City of Sunderland College, the LSC and the Council opposed them. The latter groups placed a very high value on the effectiveness of the existing post-16 partnership's ability to strategically meet the needs of all learners in the wider area. The reasons for this opposition are set out above in the relevant parts of this Determination.

46. The pattern of views shows very strong support for the College's proposals from within the College community and strong objections from those with a more strategic, area-wide perspective. This is perhaps to be expected. In coming to my conclusions I have given due weight to the range of views expressed by supporters and objectors.

## **Conclusion**

47. This proposal has several strengths.

- (i) It clearly has widespread support within the College community. This support is based on the high regard which the College is held by those currently associated with it. It would provide a more accessible option for those who live near the College. (see paras 14, 33 - 34 and 41 -46 above)
- (ii) The implementation costs of the proposed "integrated model" of

provision are relatively low and the College is planning to meet capital costs from its own resources. (see para 38-39 above)

- (iii) The proposal would offer a type of post 16 provision, a stand alone non-denominational sixth form that does not exist in the Sunderland area at present. (see paras 14-15 above)
- (iv) Recent improvements in GCSE results and the strengths of the College's work in relation to the Every Child Matters agenda and pupil's personal development more generally. (see paras 18 and 24-26 above)
- (v) The existence of locally available provision in Houghton-le-Spring may be attractive to some learners who may otherwise not engage in education post 16. (see paras 19-20 above)

48. However, I have concluded that the following weaknesses outweigh these strengths.

- (i) The standards currently achieved by pupils at the College are, overall, regarded by Ofsted as only satisfactory and value-added scores are low. Overall, there is no evidence that standards at the College are higher than in other local provision. This data, and other evidence provided with the proposals does not present a strong case that the proposal will boost standards. (see paras 17-27 above)
- (ii) The evidence about overall post 16 provision in the area describes effective strategic planning and provision that meets the learning needs of the full range of 16-19 year olds. The current arrangements work well. (see paras 20, 22-23, 25, 35-37 and 40)
- (iii) There is no need for additional places for 16-19 year olds in the area for the foreseeable future. (see para 29 above)
- (iv) The College's proposal was not drawn up in collaboration with other local providers and is not supported by any analysis of how the curriculum it proposes to offer relates to overall provision in the area or to the needs of all local young people. (see para 37 above)
- (v) The College's proposal is not supported by a detailed analysis of the specialist facilities that will be required to provide the broad curriculum offer suggested by the proposal's objectives. (see para 38 above)
- (vi) The College has not yet set out its proposed admission arrangements for entry into the sixth form. (see paras 30-32 above)

49. I therefore reject this proposal. I believe that young people in Houghton-le-Spring will be better served by further developing the current arrangements for post 16 education. I hope that the College and the other members of the local 14-19 Partnership will now work together more effectively so that the undoubted strengths of the College can make a positive contribution to the shared objectives of improving standards, participation and overall well-being in the area.

Determination

50. Under the powers conferred on me in 21 of the Education and Inspections Act 2006 and the Regulations made thereunder, I hereby reject the proposal.

Dated: 2nd March 2010

Signed:

Schools Adjudicator: John Simpson