

DETERMINATION

Case reference:	STP/000153
Referral body:	The School Organisation Committee of Tameside Local Education Authority
Statutory proposals:	Five linked proposals in the Dukinfield area of Tameside, reorganising primary and nursery provision
Date of decision:	6 October 2004

Determination

Under the powers conferred on me by Schedule 6 to the School Standards and Framework Act 1998, I hereby approve the following proposals published by Tameside Local Education Authority and the governing body of St. John's Church of England Voluntary Aided Primary School, Dukinfield on 20 May 2004:

- the discontinuance of Clarendon Fields Primary School, Dukinfield from August 2007**
- the discontinuance of Globe Lane Primary School, Dukinfield from August 2007**
- the establishment of a two-form entry primary school on the Clarendon Fields site from September 2007**
- the addition of a nursery class at Broadbent Fold Primary School from September 2005**
- the addition of a nursery class at St. John's Church of England Voluntary Controlled Primary School, from September 2005 and the reduction of its admission number from 50 to 30.**

1. The Secretary of Tameside School Organisation Committee ("the SOC") wrote to the Office of the Schools Adjudicator on 28 July 2004 referring five linked statutory proposals by the Borough of Tameside Local Education Authority ("the LEA") and the governing body of St. John's Church of England ("CE") Primary School to the adjudicator, following the failure of the SOC to achieve unanimity on the proposals at their meeting on 21 July 2004.

Jurisdiction

2. I have considered the statutory notices and the representations made about them by certain parties to these proposals. I consider that the notices published on 20 May 2004 under sections 28 and 29 of the School Standards and Framework Act 1998 ("the Act") were appropriately worded and that their content conformed to the requirements of legislation.

3. The case was referred to me as an adjudicator within the proper timescale and in accordance with paragraph 3(6) of Schedule 6 to the Act. I am satisfied that I have jurisdiction to consider this matter under the powers conferred on me by Schedule 6 to the Act.

Procedures

4. As required by paragraph 3(7) of Schedule 6 to the Act, I have considered the proposal afresh. I have had full regard to the guidance given by the Secretary of State and to the School Organisation Plan for the area as required by paragraph 3(4) of Schedule 6 to the Act and I have also had regard to the relevant provision of the Sex Discrimination Act 1975, of the Race Relations Act 1976 and of the Disability Discrimination Act 1995 as required by paragraph 6 of Schedule 5 to the Act.

5. I am satisfied that adequate financial resources will be available to enable these proposals to be implemented. The LEA has confirmed that it will be able to meet the published implementation date for the nursery classes, in spite of the delay occasioned by this referral.

6. I have considered all the papers before me which include the following:
- i. the agenda, supporting papers and draft minutes for the SOC meeting of 21 July 2004;
 - ii. prescribed information from the proposers as set out in Schedule 3 to the Education (School Organisation Proposals) (England) Regulations 1999;
 - iii. the School Organisation Plan for the area;
 - iv. the latest OFSTED reports for the relevant schools;
 - v. copies of objections and comments received, both in the course of the informal consultation which preceded the publication of proposals and after the publication of the statutory proposals;
 - vi. the proposers' observations on the objections/comments received;
 - vii. representations from the LEA including responses to questions put by me;
 - viii. representations from the RC Diocese of Shrewsbury up to and

including 30 September 2004;

- ix. representations from the Headteacher of Globe Lane Primary School.

7. Where relevant information not already available has been submitted to me following the referral, it has been copied to the non-originating parties, who have had the opportunity to comment. I have received no request for an oral hearing from any party. I have studied all the papers submitted to me carefully and consider that I have sufficient written evidence upon which to make a decision.

The Proposals and their background

8. The LEA and St. John's CE governing body published the series of statutory proposals set out above on 20 May 2004.

9. In addition to the statutory proposals which are the subject of this adjudication, the Council's policy also encompasses three further proposals which are integral to the Dukinfield review. These are the reduction in size of Lyndhurst Primary School from 1½ forms of entry ("FE") to 1FE, by the removal of the junior building, and the reduction in size of its nursery from 30 FTE to 13 FTE. In addition, the number of nursery places at Yew Tree Primary School/Acorn Nursery will be reduced from 52 full-time equivalents ("FTE") to 47 FTE, to ensure that the overall number of nursery places in the Dukinfield area stays the same after the implementation of the statutory proposals.

10. The LEA has been carrying out an area-by-area review of primary school provision. Dukinfield is the third area to be reviewed and as part of this review, the LEA published a consultation document in October 2003. The overall principles to which the LEA has been working are to

- provide a quality environment to meet the educational needs of pupils
- remove surplus places
- maximise the efficient and effective use of resources
- improve the condition of school buildings.

11. The Dukinfield review has highlighted a number of key issues in relation to the above principles. Population projections show that the already existing number of surplus places in the area will continue to grow over the next few years. Based on the January 2003 roll, there are 1876 primary school places in Dukinfield and 1754 pupils on roll. Five schools in Dukinfield had surplus capacity ranging from 8-30%. The authority calculates that based on the birth rate, they need to remove the approximate equivalent of a one-form entry primary school. The review also highlighted significant buildings/accommodation issues at a number of Dukinfield primary schools, most particularly but not exclusively at St. John's CE Primary School, where

over a third of the pupils are accommodated in demountable classrooms which are in a poor state, and Lyndhurst Primary School, where the junior building has structural defects which would require considerable investment to make it safe. Moreover, the new capacity assessment methodology used by the government to determine the sufficiency or surplus of school places, has resulted in Clarendon Fields Primary School, built as an open-plan (1FE) school with an admission number of 30, now having an admission number of 20, which is not seen as economically or educationally desirable in the urban environment. Globe Lane Primary School is also considered to need substantial buildings expenditure and is additionally sited within an industrial estate. The status quo is not seen as a sensible option.

12. When carrying out the review of primary provision in Dukinfield, the LEA evaluated the current position and way forward for the five community schools (Broadbent Fold, Clarendon Fields, Lyndhurst, Globe Lane and Yew Tree) and the one voluntary controlled school (St. John's CE) but decided not to include the RC primary school, St. Mary's, in the review. This was because they considered that this was a matter for the RC Diocese. The consultation document issued specifically stated that the Roman Catholic Diocese would carry out its own review of RC primary schools. The LEA had adopted the same policy in the review of the first two areas of the primary review: Mossley and Ashton-under-Lyne. In addition, the school was well subscribed and thus not an issue as far as surplus places was concerned. The RC Diocese confirmed in its response to pre-statutory consultation that intake levels were likely to remain constant until at least 2006, inclusive.

13. Tameside operates a once a year (September) admissions policy into reception classes. In terms of nursery provision, places are currently provided for the seven Dukinfield primary schools at Globe Lane (30 FTE), Lyndhurst (30 FTE) and Yew Tree (52 FTE). (The LEA provides part-time nursery places; thus, effectively the full time equivalents cater for twice the number of children indicated). However, although only three primary schools currently have nursery provision within the school, there are sufficient nursery places overall for the area, since double units (or larger) have been provided.

14. Yew Tree Primary School, which has an admission number of 70, houses a nursery provision known as the Acorn Nursery (104 part-time places), which provides for its own children and for those of a special school (Oakdale), as well as those going on to St. Mary's RC. St. Mary's RC is on the same campus as Acorn Nursery/Yew Tree; indeed, the nursery building is sited between the two schools. Thus, although the places are not actually in St. Mary's RC School, they are effectively on the same site. The number of nursery places in Yew Tree/Acorn is geared to provide for St. Mary's RC children, and historically, it has been used by parents who wish their children to go on to St. Mary's RC.

15. The LEA recognised that there was no obvious solution to the complex issues relating to primary provision in Dukinfield. Simply closing a 1FE primary school would not suitably address either the issue of poor buildings or the distribution of demand, both denominational and geographical, for places.

Thus, the LEA set out four options during the initial consultation period. All included the closure of Globe Lane and Clarendon Fields schools and their replacement with either a 1½, 2 or 3 FE school, depending on the other options chosen. Most included removing the junior building at Lyndhurst School and removing the demountable accommodation at St. John's CE School.

16. The option eventually preferred by the LEA was that supported, or least opposed, by the majority of those consulted during the pre-statutory process. Because the option included the closure of Globe Lane Primary School with its 30 FTE nursery provision and the reduction in size from 1½ FE to 1FE of Lyndhurst Primary School which also has a 30 FTE nursery, some reorganisation of nursery provision was clearly needed. Thus, in the final proposals, the new 2FE primary school on the Clarendon Fields site would have its own double nursery; the nursery at Lyndhurst would be reduced in size to suit a 1FE school; St. John's CE would be provided with a nursery suitable for a 1FE school; Broadbent Fold Primary School (1FE) would have a nursery class added to it. Because those additions would have actually increased nursery provision, which was not necessary to meet need, the number of nursery places at Yew Tree/Acorn Nursery was to be reduced by 5FTE. The actual distribution of nursery places was further affected by bringing Tameside provision into line with national recommendations that nursery staff ratios should be 1:13 pupils. Thus, single nursery units would in future have 26 part-time places instead of the previous 30 part-time places. The Early Years Partnership agreed with the redistribution of places set out in the statutory proposals and expressed no views on the position at St. Mary's.

17. Advantage had thus been taken of the LEA's aim to reconfigure its primary stock in Dukinfield to meet future demand, to provide a nursery class for each community/voluntary controlled school. However, because it had been left to the RC Diocese to review its own primary provision, this meant that St. Mary's RC had moved from being one of the Dukinfield primary schools which had nursery provision on the same site, to being the only Dukinfield primary school which did not have its "own" nursery class.

The Objections

18. The pre-statutory consultation on the four options produced a lively debate, many comments and several suggestions for further options. When it came to the statutory proposals, there were objections only from Globe Lane Primary School and three local residents of the Clarendon Fields area. None of the other schools, including St. Mary's RC and the Shrewsbury RC Diocese, or any other groups of parents or residents, either objected or sent in any representations.

19. The residents objected to the additional traffic which they believed would be generated by siting a larger school on the Clarendon Fields site, to the lack of consultation with residents and to the potential impact on community used land adjacent to the school.

20. Globe Lane Primary School objected to the proposals, which would close the school, on the following principal grounds:

- the consultation process was flawed, with inaccurate data being presented
- the options offered were too narrow; in the initial consultation, four options were put forward all of which included the closure of Globe Lane and Clarendon Fields Primary Schools
- the school building is in good condition on a large site with nursery provision and good accessibility; its construction means that it will probably last longer than more modern buildings
- the school does not fall into the category of having 25% surplus capacity and the proposals remove so many places that there is inflexibility for the future
- another school which has more than 25% surplus capacity and no nursery provision is not proposed for closure
- Globe Lane is a good school and was graded B in the 2003 PANDA for value added. There are questionable educational benefits in what is proposed
- there is no cost benefit analysis of the proposals
- there are other, better options.

21. At the SOC meeting of 21 July 2004, the objectors were heard by the Committee and their objections discussed. The Roman Catholic representative of the Shrewsbury Diocese on the SOC raised the issue of nursery provision at St. Mary's. The LEA's Chief Education Officer stated that the proposals would not affect St. Mary's. When the vote in the SOC was taken, the LEA, Church of England and Schools Groups voted for the proposals with the Learning and Skills Council abstaining because the issues did not pertain to 16-19 education. The Roman Catholic Group voted against.

22. The stated reason for the RC vote was

"The Shrewsbury Diocese together with the Diocese of Salford, supports the Local Education Authority's proposals to provide nursery education for all children in Dukinfield. The current review and its conclusion does not provide for nursery provision at St. Mary's RC Primary School in line with these LEA objectives. Consequently, parity of provision is not a current reality and the Diocese believes the school will be placed in a prejudiced and detrimental position. The Diocese believes that a nursery should have been proposed for St. Mary's to ensure that parity of provision is secured for those wishing to receive a denominational education. For that reason, the Roman Catholic

community is unable to support the current proposals and votes against”.

23. The RC Diocese has subsequently argued that the Tameside LEA Compact committed itself to a strategic review of the location of Early Years education and childcare across the Borough. St. Mary’s need for nursery education was specifically excluded from the Dukinfield review. It was not possible to see how the statutory proposals advanced either the LEA’s published stance on nursery education or its commitment to a strategic review. The Diocese also referred to addressing the current denominational imbalance before looking to the extension of any further provision in the community sector, and on 30 September 2004 sought to argue that St. Mary’s should not have been excluded from the Dukinfield review. It also stated in that letter that the LEA’s stance of supporting a complete re-build for St. Mary’s but not a nursery added to the current building is contradictory.

The LEA response

24. I will address the LEA response to the arguments of the residents of the Clarendon Fields area and to Globe Lane Primary School below.

25. The LEA’s response to the RC vote in the SOC, which was not directed specifically against any or all of the proposals but to the lack of a nursery proposal for St. Mary’s, was to note that the vote was not based on any objection raised during the statutory objection period or on evidence presented to the LEA for consideration prior to the SOC meeting. The LEA further noted that neither St. Mary’s RC governors nor the Diocese objected or commented during the six-week period allowed under legislation, and that the reason given is irrational because the LEA cannot put forward a proposal to establish a nursery at a Voluntary Aided school. The Diocese has not put forward a proposal to do so nor obtained the appropriate funding. The Tameside Compact referred to above commits to high quality early years education. It does not commit to a strategic review. The LEA had explained to the Diocese that further consultation would be needed on a further reduction of the number of places at Yew Tree/Acorn nursery which currently provides nursery places for St. Mary’s, if a proposal for a nursery at St. Mary’s was to go ahead.

Consideration of Factors

The five statutory proposals

26. Although the reason for the vote against in the SOC was not related to the issues raised in the statutory objections, I am required to consider the proposals afresh. I have therefore considered the arguments put forward by the statutory objectors and any other relevant matters in the light of all the evidence and the guidance provided by the Secretary of State for decision-makers.

27. The consultation was thorough and extensive. It was properly reported

to Cabinet and then to the SOC. The issues raised by the residents were raised by others during the initial consultation period and addressed satisfactorily, in my view, by the LEA. It is quite correct that a different set of consultation papers (although containing the same proposals) were issued to different audiences and that there were data inaccuracies in them. These were put right during the course of the process. Thus, although I concur that such inaccuracies were very annoying for consultees and detracted from the smooth flow of the process at least at the outset, it is clear to me that the consultees fully understood both the figures and the arguments. Thus, although the consultation process could have been improved, I consider that it met the relevant requirements and that consultees were able to understand the arguments and put their viewpoint across successfully.

28. I have considered the argument put forward by some that St. Mary's RC should have been fully included in the consultation process, even though neither the school nor the Diocese has actually argued this point. At the start of the consultation process, a meeting was held for all Dukinfield primary Heads and Chairs of Governors to which St. Mary's RC was invited along with the other schools, and indeed attended. The initial consultation document was issued at this meeting. Since there were no proposals directly affecting St. Mary's staff or parents, I consider it would have been inappropriate for the full panoply of consultation meetings held with governors, parents and staff in the other schools to have been carried out with St. Mary's. The school had been issued with the consultation document in case they wished to contribute in the consultation process. The relevant RC Diocese was formally consulted, and indeed replied.

29. Globe Lane School (and indeed others in the initial consultation process) sought in its statutory objection to argue that there should have been a wider variety of options put forward. Specifically, they pointed out that all the options included the closure of Globe Lane and Clarendon Fields schools and the building of a new primary school to replace them. It is indeed difficult for parents and others when in practice, all eventualities appear to encompass the closure of particular schools. I have considered carefully the LEA's arguments in this respect, given the principles which underpinned their review, all of which are entirely sensible. The LEA had considered inter alia the buildings and site issues, the relative costs of building maintenance, the impact of the redistribution of nursery places, the siting of all the existing Dukinfield schools in relation to demand, the lack of economic/educational viability of Clarendon Fields School with an admission number of 20, and the calculated demand in the area served by Clarendon Fields and Globe Lane. The LEA did explain clearly why the Clarendon Fields site was the preferred option and why other sites suggested were either not practical, sensible or simply not available. It also clearly explained why the closure of both schools rather than simply the closure of Globe Lane and the expansion of Clarendon Fields were to be preferred. I do not consider that the four options put forward were unreasonable.

30. Globe Lane put forward other options and claimed that they were not

properly considered. I have considered this point and the LEA's response. It is clear to me that they were properly considered; the relevant report goes into some detail on these points. I agree with the LEA that the further options put forward either had effectively been consulted upon or did not meet sufficiently the aims of the review. In this respect, the quality of the Globe Lane building clearly was taken into account, though not in the way that the objectors would have wished. Many of the options proposed simply reduced admission numbers, which does not actually address the issue of over-capacity. In terms of a possible lack of flexibility with the number of primary places proposed to be removed, (is something missing from here? "I note" that the proposals for Dukinfield are in line with the LEA's adopted policy in the SOP of retaining a primary surplus capacity of 5%.

31. It is quite correct, as Globe Lane has argued, that another school in the Dukinfield area has more than 25% surplus capacity, whereas it does not. The LEA's argument is that other matters have to be taken into consideration. The closure of that particular school formed part of the pre-statutory consultation, being an aspect of one of the four options. The LEA is entitled to consider all the arguments put forward in this consultation process and come to a view which will reduce surplus capacity overall, while continuing to have primary provision sited in appropriate places in the area. .

32. Although the statutory guidance is emphatic that standards of education are a key consideration in any school organisation proposals, the LEA did not address the issue of standards publicly in the consultation process or in the option chosen for statutory publication, although it did state that it had taken account, when it opted for the more expensive 2FE school option, of the arguments which strongly opposed the creation of a new 3FE school on educational as well as social grounds.

33. I have considered the latest OFSTED reports for the community and voluntary controlled schools in Dukinfield, which were the subject of the review. In spite of claims by certain schools, as far as the evidence of the OFSTED reports is concerned, none of the schools stands out as being either especially poor or particularly good. In terms of the closure of Clarendon Fields and Globe Lane Schools, this is not a case of excellent or even very good schools being closed. The reduction in size of St. John's CE simply reflects existing demand. The removal of poor quality, demountable classrooms from the school will be an improvement. The OFSTED report on Lyndhurst School suggests that although there are still weaknesses in the school, the new management has the capacity to address them. OFSTED clearly had confidence in the new Headteacher; there is thus no reason to doubt that the school will be able to address the issues it will face with the implementation of the Dukinfield review without any lowering of standards.

34. I have considered the argument that there was insufficient financial appraisal of the various options. Unfortunately, some of the figures involved, particularly those connected with acquiring land, are commercially confidential. Very significant sums of public money will be spent in carrying

out the statutory proposals. The LEA was not successful in receiving Targeted Capital Bid funding for the review. However, the LEA has commented on the financial implications of the proposals and appears content that it is a reasonably good use of their capital funds. Overall, Dukinfield children will be accommodated in better buildings, suitably organised for modern curriculum delivery, with nursery provision more conveniently sited for many parents.

35. I have taken note of the results of the consultation process, which by and large favoured (or least disfavoured) option 2, which was the option with which the LEA then proceeded. I have noted that given the large scale of this reorganisation, the number of schools affected and the impact which it will have across the area, the actual number of statutory objections was small. Only one of the four schools which might consider themselves adversely affected in some degree by the proposals actually objected. There were objections from only three local residents. When the proposals came before the SOC, there appears to have been no dissent about the actual proposals themselves. The only dissent was that a seventh school which had not been included in the review, should by some means unspecified have been provided with a nursery class. In spite of this point, the LEA, the Schools and the CE Groups voted in favour of the proposals even though they will result in a diminution of CE primary provision in the area.

36. I have considered the proposals for the two nursery classes in the light of the statutory guidance. No new places are being added by this significant expenditure. However, some reorganisation of nursery provision was likely, no matter which option was taken forward for reducing the surplus primary places, which will make overall provision more efficient and economic. Putting nursery classes into Broadbent Fold and St. John's CE Schools will make nursery provision more convenient for parents and is likely to improve the viability of Broadbent Fold School.

The argument put forward by the RC Group on the SOC

37. It is certainly the case that one of the LEA's objectives, as expressed in its School Organisation Plan ("SOP"), is "to maintain primary schools for the full age range 4-11 with each school having its own nursery". The SOP also recognises, however, that RC denominational provision provides a 'radical alternative', a clear signal that it regards RC provision as separate from community/CE provision which provides for all children within a community. The RC schools provide for a specific community, and plan school places, according to the Diocese, according to parish baptismal records which will not be available to the LEA. It is reasonable, therefore, that the LEA considers that RC provision is best reviewed by the relevant Diocese. Dukinfield was the third Tameside primary review, after Mossley and Ashton under Lyne. I am assured by the LEA that the same process was used in the previous two reviews, that is, the Catholic schools were left to be reviewed by the Catholic authorities. There appears to have been no objection to this. Denominational schools are spread unevenly across LEAs and it will rarely make good sense in terms of overall denominational provision for a small area view to be taken.

In terms of denominational balance, according to the LEA's primary admissions booklet "Starting Out 2004", St. Mary's Dukinfield is the only RC primary school in Tameside without a nursery class. There are three voluntary controlled and three voluntary aided CE primary schools without nurseries, and nine community schools.

38. The aims of the Dukinfield review, moreover, were not specifically related to nursery provision, still less to increasing nursery provision, which was not proposed. The principal purpose of the review was to address the issues of surplus places and poor buildings. The redistribution of nursery provision in the area was a by-product of the Dukinfield review. Even supposing there were a commitment to review nursery provision (which the LEA denies), the LEA is entitled to review its provision in terms of surplus places without addressing all its objectives in the same review.

39. The Diocese claims that it had consistently pressed for a nursery for St. Mary's RC, Dukinfield for four years. The LEA says that it has not been made aware of this, and states that the Diocese did not raise the issue with them until 2004, even though regular termly meetings are held with both CE and RC Diocesan representatives. LEA is clear that the St. Mary's RC Development Plan has not included any indication of a desire to develop nursery provision. Funding sought by the school has been for repair and maintenance work, not for a nursery class. No voluntary aided funding bid has actually been made for a nursery class or replacement school. The Diocese had had the opportunity to bid for a replacement school as a Targeted Capital Bid in previous years but had used the opportunity to bid for a sports hall for a secondary school. The first time the LEA had seen an indication of the views of the St. Mary's governors was in Form S4 submitted in March 2004, in which working with the Diocese to rebuild the school over a five-year period was stated as a priority for improvement. The LEA has also cited the view of the Head of St. Mary's at the consultation meeting held for Heads and Chairs, that places should not be cut back at Yew Tree/Acorn because this would affect future St. Mary's children, since St. Mary's had a historical agreement to access nursery provision at Yew Tree/Acorn. It is unfortunate that there seems to have been such a breakdown of communication but I do not consider that the LEA made unreasonable assumptions in the circumstances.

40. The Diocese responded to the Dukinfield consultation in terms which are difficult to interpret. It raised the issue of a nursery class for St. Mary's and stated that LCVAP funding was being sought. It then strongly implied that its preferred option was to take advantage of the reorganisation to bid to the DfES for a complete replacement school for St. Mary's RC, to include a nursery. In my view, this would have precluded a new-build nursery being a sensible option at this time at St. Mary's. No LCVAP bid was made. The LEA arranged two dates in January 2004 for meetings with the Diocesan Director of Schools of the RC Diocese to clarify its approach to and the way forward for St. Mary's; the Diocese cancelled both. It was thereupon left for the RC Diocese to suggest a new date for a meeting. At a meeting held with colleagues from all four Dioceses represented in Tameside in March 2004

(including the Shrewsbury RC Diocese), it was made clear by the LEA that since the Dukinfield consultation had already started, it would require a further LEA consultation to progress any nursery at St. Mary's because an equivalent number of places would have to be removed from Yew Tree/Acorn nursery, if there were not to be more places than needed in the area. There was also the complication of the balance of mainstream to special needs places at Yew Tree/Acorn Nursery. However, it is clear that even with the lack of response from the Diocese for a meeting, LEA officers acted entirely appropriately by including a recommendation to Cabinet in the spring 2004, that consultation should take place on a further reduction of nursery places at Yew Tree/Acorn from 47 FTE to 34 FTE, this being the appropriate precursor to any nursery provision at St. Mary's. If it had wished to progress the issue at the same time as the Dukinfield review, it was open to the RC Diocese to carry out a parallel consultation. It did not do so.

41. The publication of statutory notices was delayed from its intended early spring date to early summer 2004 because the LEA decided to wait until they received a decision on its Target Capital Bid to the government. There was thus six months from the launch of the initial consultation process during which the RC Diocese could, if an important issue of principle had been at stake, have talked further to the LEA about a joint way forward for St. Mary's, Dukinfield. There was no further request for a meeting from the Diocese and none from the school before the publication of the statutory notices, which are the subject of this adjudication, in May 2004. Neither the governors of St. Mary's RC nor the RC Diocese either objected to or sent in any comments about the statutory proposals. Indeed, no indication of any kind was given that there were serious concerns about the published statutory proposals. At the termly LEA/Diocesan meeting held on 16 June 2004, within the six-week period for representations, the Shrewsbury Diocese re-iterated that the governors of St. Mary's wished to establish nursery provision but did not object to the statutory proposals. However, it also said that St. Mary's also wished to explore a link with the Hawthorns School, a primary MLD school, to the extent of being co-located (and rebuilt as an entirety) with it. A letter from the Director of the RC Diocese to the Chief Education Officer dated 21 June 2004 (also within the six-week objection/comment period) merely requested a meeting to discuss the issue of a nursery at St. Mary's and the question of possible co-location with the Hawthorns School.

42. A key point made by the RC Group on the SOC is that "a nursery should have been proposed for St. Mary's". The reason given was so that "parity of provision is secured for those wishing to receive a denominational education". If the Diocese had wished to propose a nursery for St. Mary's, it or the school should have commenced the appropriate consultation. The LEA was clearly willing to facilitate this, as mentioned in paragraph 40 above, being willing to propose to start its side of the required consultation.

43. A second key argument put forward by the RC Group is that St. Mary's RC will be placed "in a prejudiced and detrimental position" by the current statutory proposals. This presumably refers to the change of position from the

situation where St. Mary's had been one of the Tameside primary schools which had nursery provision on the same campus, to a position where it was the only Dukinfield primary school which did not have its "own" nursery. It is not unreasonable to regard this as a possible, minor disadvantage for St. Mary's in that although they have provision on the same campus, they do not actually run it as part of the school. I consider it a considerable exaggeration, however, to suggest that it places St. Mary's in a "prejudiced and detrimental position". St. Mary's is the only RC primary school serving the Dukinfield area. It is oversubscribed and clearly successful. The notion that it will actually be badly affected by two neighbouring schools (an undersubscribed CE school and a small, considerably undersubscribed community school) obtaining their own nursery provision (as opposed to the same number of nursery places being available elsewhere), is unrealistic.

44. I do not consider it unreasonable, after the result of the bid for Targeted Capital bid funding became known, that the LEA recommendation to consult on reducing the number of places at Yew Tree still further (to facilitate a nursery at St. Mary's) was changed to a decision to seek further discussion with the Diocese and to see how the use of the existing places could be maximised to the benefit of the whole community. The LEA has explained that it was clear that no funding could become available during the timescale of the Dukinfield review for a nursery at St. Mary's, since all funding sources from LCVAP or Targeted Capital Bid to the government were either allocated or committed. In their view, consulting on reducing still further the places at Yew Tree/Acorn was therefore neither viable nor sustainable. I agree with the LEA that under these circumstances, there was no point consulting on a proposal, which would have potentially destabilising effects on staff, which could not be put into effect in the foreseeable future.

45. The LEA has consistently supported the rebuild of St. Mary's; the Diocese acknowledges this. The LEA noted in its report to Cabinet after the pre-statutory consultation that the Diocese was keen to explore the possibility of bidding to the DfES for a replacement school building for St. Mary's, which it welcomed. The LEA has also recognised the "need for St. Mary's Roman Catholic Primary school to have a nursery". The LEA has clearly supported nurseries in RC schools in the past; all but one of the RC primary schools in Tameside have their own nursery class. The Diocese itself has commented that Tameside LEA "has been an excellent example" of authorities with whom it has secured agreement through continuing dialogue.

46. In its response to the adjudicator, the RC Diocese stated that "the statutory position afforded to the Diocese on the School Organisation Committee emphasises that such is the relevant forum for comment on statutory proposals". I disagree that it is the appropriate place for initial comment on statutory proposals. The purpose of publishing statutory notices with an invitation to make representations within a specified timescale is to ensure that all relevant viewpoints are placed before the SOC when it comes to make its decision, and to allow the LEA the opportunity afforded to them in law to comment on those representations. Using a veto power without

providing the SOC with advance information or warning is unlikely to advance the aim of informed local decision taking which is the raison d'être of SOCs.

Conclusion

47. I have concluded that it was reasonable for the LEA to have excluded St. Mary's RC School from its review of surplus primary places in Dukinfield. Although there may conceivably be a minor disadvantage to St. Mary's RC from the result, I do not consider that the school has been left in a "prejudiced and detrimental position" by the review and the statutory proposals resulting from it. No new nursery places have been added by the review. They have simply been redistributed in a way which was appropriate. The denominational balance in nursery provision in Tameside actually favours the Roman Catholic schools. The number of places in Yew Tree/Acorn Nursery has been deliberately calculated to be sufficient for the children who will then go on to St. Mary's, which is effectively on the same site. St. Mary's RC is an oversubscribed, denominational school; it is unrealistic to suppose that it will be adversely affected by Broadbent Fold or St. John's CE schools obtaining nursery provision on their sites as opposed to elsewhere in the area. Moreover, nothing has been excluded for the future, if funding becomes available, by these statutory proposals.

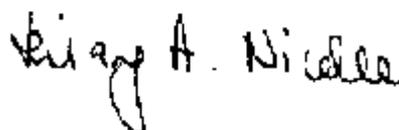
48. Moreover, it is for the RC Diocese and the school to produce practical, timely proposals, with the appropriate funding applied for. There is no indication that the LEA has been uncooperative in dealing with the school and it has in fact showed support for the apparent preference of the Diocese and the school for a complete rebuild, at which point the nursery will obviously come back on to the agenda. It is in any event difficult to see how it could make sense for public money to be spent now on building a nursery class for a school whose future is seen in a complete rebuild, when parents currently have access to good nursery provision effectively on the same site.

Determination

49. Under the powers conferred on me by Schedule 6 to the School Standards and Framework Act 1998, I hereby approve the proposals of Tameside Local Education Authority and the governing body of St. John's Church of England School, Dukinfield, as set out above.

Dated: 6 October 2004

Signed:

A handwritten signature in black ink, appearing to read "Hilary A. Nicolle". The signature is written in a cursive, slightly slanted style.

Schools Adjudicator: Dr. Hilary Nicolle