

CHESHIRE EAST COUNCIL

REPORT TO: CABINET

Date of Meeting:	3 May 2011
Report of:	Lorraine Butcher. Director of Children and Families
Subject/Title:	Decision on the Proposal to Close Macclesfield High School
Portfolio Holder:	Cllr Hilda Gaddum

1.0 Report Summary

- 1.1 At the meeting of 14 February, Cabinet authorised publication of the statutory notice proposing the closure of Macclesfield High School on 31 August 2011 (attached as **Appendix 1**). This notice is an extract from the complete proposal (attached as **Appendix 2**). The appendices to the complete proposal are available in the Cabinet Office for Members prior to the meeting of 3 May.
- 1.2 This decision paper reports on the outcome of the statutory public notice and details the responses received during the 6 week representation period following the publication of the statutory notice, which commenced on 28 February 2011 and concluded on 11 April 2011. Cabinet are advised that the guidance (attached as **Appendix 3**) issued by the Department for Education (DfE) states that there should be a presumption in favour of approval of a proposal to close a school if provision for pupils is dependent on the establishment of an Academy.
- 1.3 Paragraphs 8(6) and 17 of Schedule 2 to the EIA 2006 provides that the local authority must have regard to guidance issued by the Secretary of State when taking a decision on a closure proposal as aforementioned. **Appendix 4** to this report includes extracts from the guidance to assist Cabinet in their decision-making. The table includes the relevant paragraphs from the guidance confirming the current position for the school and addressing the impact of closure in relation to each paragraph, where applicable.
- 1.4 The Appendices to this report are listed in the table below:

Appendix	Document
1	Statutory Public Notice
2	Complete Proposal
2.1	Formal Consultation Summary
2.2	Formal Consultation Document Nov2010
2.3	FAQs
2.4	Formal Consultation Feedback Log
2.5	Feedback Log Pupil Participation MHS
2.6	MHS GB Response
2.7	MHS Acting Exec Head Response
2.8	MP for Macclesfield Response

2.9	Catholic Diocese of Shrewsbury Response
2.10	AHCC Response
2.11	Academy Expression of Interest
3	Guidance issued by the Department for Education
4	Guidance for Cabinet Members – Extracts from the DfE Guidance Appendix 3)
4.1	Macclesfield High School Monitoring Report
4.2	Macclesfield High School – Action Plan Review
4.3	Macclesfield College (Academy Sponsor) –The Vision
5	Representation.

2 Decision Requested

2.1 Cabinet are requested:

- to approve the closure of Macclesfield High School on 31 August 2011 and,
- to give approval to the recommendation that closure is to take effect only if, by the date of closure, an agreement has been made under section 482(1) of the Education Act 1996 for the establishment of an Academy on the same site.

3.0 Reasons for the Recommendation

- 3.1 The outcome of the recent representation period (**Appendix 5**) (to follow) provides a summary of the feedback received on the proposal to close Macclesfield High School on 31 August 2011. Members will wish to note that any person can submit representations, which can be objections as well as expressions of support for the proposals. The representation period is the final opportunity for people and organisations to express their views about the proposals and Cabinet must take these into account when deciding the proposal.
- 3.2 Only one representation has been received (attached as Appendix 5), which confirms support for the proposal to closure the High School, conditional upon the establishment of an Academy. The respondent states ‘I was very inspired by the vision the College have for the proposed Academy...This proposal allows the pupils to continue at the same site without too much upheaval...’.
- 3.3 The establishment of an Academy is subject to the agreement of the Secretary of State and falls outside School Organisation regulations. Cabinet are advised that the guidance issued by Department for Education is that there should be a presumption in favour of approval of a proposal to close a school if provision for pupils is dependent on the establishment of an Academy.
- 3.4 Members will wish to note that the Expression of Interest (EOI) (**Appendix 2.11**) submitted in January to the Department for Education has now received approval from Lord Hill, which means that ministers have agreed to release funding for the project development. This will allow Macclesfield College, as sponsors, to develop plans to establish an 11-16 academy on the same site.

- 3.5 If the closure of Macclesfield High School is agreed, the Local Authority, with the Department for Education and Macclesfield College will continue to take the appropriate steps to prepare for implementation for the opening of the Academy on the existing site on 1 September 2011.
- 3.6 In the event that a final decision is taken to close Macclesfield High School and to establish an Academy on the same site with effect from September 2011, pupils for whom places have been offered and accepted at Macclesfield High School, together with pupils on the roll of the school at the time of closure, will automatically be entitled to a place at the new Academy.

4 Wards Affected

- 4.1 See paragraph 5 below.

5.0 Local Ward Members

<u>COUNCILLORS NAME</u>	<u>REPRESENTING WARD</u>
Cllr Harold Davenport	Bollington & Disley
Cllr Matthew Davies	Bollington & Disley
Cllr Diana Thompson	Bollington & Disley
Cllr Ainsley Arnold	Broken Cross
Cllr John Goddard	Broken Cross
Cllr John Narraway	Broken Cross
Cllr Marc Asquith	Macclesfield Forest
Cllr Hilda Gaddum	Macclesfield Forest
Cllr Lesley Smetham	Macclesfield Forest
Cllr Stephen Broadhurst	Macclesfield Town
Cllr David Neilson	Macclesfield Town
Cllr Christine Tomlinson	Macclesfield Town
Cllr Sandy Bentley	Macclesfield West
Cllr Martin Hardy	Macclesfield West
Cllr Darryl Beckford	Macclesfield West
Cllr Paul Findlow	Prestbury and Tytherington
Cllr Thelma Jackson	Prestbury and Tytherington
Cllr Bill Livesley	Prestbury and Tytherington

6.0 Policy Implications

- 6.1 This proposal accords with government policy and current DfE guidance on the discontinuance of a maintained school and formation of Academies under the Academies Act 2010.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 The main cost associated with the school closure for the Local Authority will be the inheritance of any potential budget deficit. A Notice of Concern is to be issued immediately following any decision to close Macclesfield High School. The Notice of Concern should outline the steps to be taken by both the LA and

Macclesfield High School, to ensure any potential deficit is controlled as far as possible. Work is therefore being undertaken by Schools HR and Finance in order to manage the existing school budget to avoid handover of a deficit budget. Reductions/ Redundancies are being effected from both 31 August 2011 and 31 March 2012 to ensure balanced budget at financial year end 11/12. Any costs that materialise through the closure and fall to the Local Authority will, where possible, be levied against the Dedicated Schools Grant.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Statutory guidance states that there are 4 key issues which Cabinet should consider before judging the respective factors and merits of the proposal contained in this report:

- Is any information missing? If so, the Decision Maker should request this immediately specifying a date by which the information should be provided;

- Does the published notice comply with statutory requirements?

The statutory notice was prepared with legal advice and checked by the DfE before publication.

- Has the statutory consultation been carried out prior to the publication of the notice?

Consultation took place between 15 November 2010 and 14 January 2011 and a summary of the results were presented to Cabinet at the meeting of 14 February 2011.

- Are the proposals “related” to other published proposals?

The law prescribes which proposals are “related”. The proposals contained in this report are not “related” to any other proposals.

8.2 Paragraphs 8(6) and 17 of Schedule 2 to the EIA 2006 provides that both the LA and schools adjudicator **must** have regard to guidance issued by the Secretary of State when they take a decision on closure proposals. The list of issues to be taken into account as set out in guidance is set out in **Appendix 4**, with comments of officers attached in respect of each of the issues. Guidance is clear that this list should not be taken to be exhaustive as their importance will vary depending on the proposals being considered. All proposals should therefore be considered on their individual merits.

8.3 The decision of Cabinet in respect of the proposal to close Macclesfield High School can be conditional upon an agreement being reached for the establishment of an academy at the same site. It is understood that if Macclesfield High School was simply closed, Cheshire East Council would not have sufficient school places available in the Macclesfield area to meet its statutory obligations. The establishment of the proposed Academy is therefore

crucial to any proposal to close Macclesfield High School. If the approval given is conditional, a date should be given by which that condition is to be met.

- 8.4 If Macclesfield High School closes, there will be employment issues. Formal notices of closure will have to be issued having formally consulted. There are Human Resource implications for all staff at the closing school. Staff will be subject to the Transfer of Undertakings Protection of Employment Rights Regulations 2006 (TUPE) or may be at risk of redundancy, depending upon which option is adopted. In redundancy situations then the Employer has a duty to seek to find suitable alternative employment for those staff affected. Given that the authority has no legal right to redeploy staff to schools, this is achieved by seeking to work collaboratively with schools and through the use of a staffing protocol which schools would be asked to adhere to. Schools would be asked/ encouraged to consider staff for any vacancies in advance of advertising more widely.

9.0 Risk Management

- 9.1 Apart from the risk of legal challenge, this proposal was identified as offering the best solution to the very difficult position the school finds itself in with increasing surplus places, budgetary pressures and the need for continued external support and additional investment to continue to raise standards. There is a need to minimise the period of uncertainty for governors, staff and parents and carers of children at the school or due to transfer there in the near future. The risk of not doing anything far outweighs that of taking action now.

10.0 Background

- 10.1 The background to the proposal to close Macclesfield High School can be found in the full proposal (**Appendix 2**). The consultation process has been implemented in accordance with the guidance issued by the DfE (**Appendix 3**) and the reasons for the proposal have been well rehearsed in reports previously presented to Cabinet. The following highlights the key points for consideration by Cabinet Members.
- 10.2 There are four mainstream secondary schools in Macclesfield, each providing education aged 11 to 18. These are:
1. Macclesfield High (formed in 2007 from the relocation of Henbury High School onto the Macclesfield Learning Zone site);
 2. The Fallibroome Academy (formerly Fallibroome High School)
 3. All Hallows Catholic College
 4. Tytherington High School
- 10.3 The number of pupils attending these high schools has fallen over the past years resulting in surplus places in the town. The removal of surplus places is a government requirement since it leads to a significant financial drain on school budgets.
- 10.4 The pattern of parental preference in the Macclesfield area means that the majority of surplus places are at Macclesfield High School. Whilst the number of

pupils attending Macclesfield High School in October 2010 of 745 produces a surplus for the school of 26%, the number on roll is forecast to fall further to 708 by 2017, which if realised would result in 30% surplus places at the school. Taking into account the pattern of parental preference, further analysis shows that this surplus figure could be much greater if no action is taken with a potential surplus at Macclesfield High School of up to 67% by 2017 if the other three mainstream schools continue to receive admissions in line with their published admission numbers. Full details are included in the formal consultation document attached as **Appendix 2.2** to this report.

- 10.5 The three year trend in the academic standards at Macclesfield High School, following its creation as a new secondary school in September 2007, has been downward. This trend culminated in the school only just achieving above the 30% national baseline in terms of 5+ A*- C including English and Maths (actual result 31%) in Summer 2009. The resulting decision by the Local Authority and the DFE to include the school within the National Challenge programme was a vital and necessary step to significantly accelerate improvements in pupil attainment. Leadership and Management support from Tytherington High School contributed to the school not being placed in special measures following an OfSTED Inspection in February 2010. The school achieved its National Challenge Target in summer 2010 examinations and the HMI monitoring visit in September 2010 judged the school to be making good progress. There has been a positive rise in the 5+A*-C including English & Maths rate up to 42% (11% rise) which has brought improved confidence in the school and the local community to deliver high quality learning. However, the level and range of interventions have been significant and all have contributed to the improvements in attainment as seen in the Summer 2010. Whilst these improvements need to be celebrated, there is still a considerable amount of further work to be undertaken throughout the school to fully embed the progress seen and create a consistent and sustainable rate of school improvement in terms of the costs of external interventions into the school during 2009-10 and 2010-11.
- 10.6 Although the school has made progress in improving the education offered to its students, the Council believes that a radical change in structure is needed to sustain this improvement and to reverse the trend of declining student numbers. The view of the Local Authority is that further sustainable improvement would be best delivered with external support and an appropriate sponsor.
- 10.7 In accordance with the requirements of section 16 of the Education and Inspections Act 2006, formal statutory consultation has been undertaken between 15 November 2010 and 14 January 2011 on the Council's proposal to close Macclesfield High School on 31 August 2011.
- 10.8 Informal consultation was also undertaken prior to this in the summer 2010 and feedback received on a range of options at this stage in the process demonstrated the desire by parents, carers and other interested parties to retain a non-faith provision on the south side of the town, which this proposal would facilitate. The outcomes of this process were summarised in a report to the Cabinet Member for Children and Families on 8 November 2010. Copies

are available for Members in the Cabinet Office, Westfields, prior to the meeting or on request by contacting the report writer.

- 10.9 The outcomes of the formal consultation period, together with information about the process implemented, are included with this report (**Appendix 2.3**) and were presented to Cabinet on 14 February when seeking permission to publish the statutory notice for the closure of the school. Full Copies are available for Members in the Cabinet Office, Westfields, prior to the meeting or on request by contacting the report writer.
- 10.10 DfE guidance states that the decision-maker should be satisfied that the consultation meets statutory requirements. How statutory consultation is carried out is not prescribed in regulations and it is for the proposers to determine the nature of the consultation. This has been followed.
- 10.11 Cabinet Members will wish to note that at the meeting of the Children and Families Scrutiny Committee of 7 December 2010, Members were invited to comment on the consultation document and process implemented by officers in respect of the proposal to close Macclesfield High School. The minutes of the meeting state,

‘That the Committee fully endorse Cheshire East Council’s consultation arrangementsand in doing so congratulate the Council on the clarity of the consultation document.’

11.0 Access to Information

Hard Copies of the representations received are available for Members of the Cabinet to view at the Cabinet Office, Westfields, Sandbach together with copies of documents referred to in this decision paper. Background papers relating to this report can be inspected by contacting the report writer:

Name: Barbara Dale,

Designation: School Organisation, Admissions and Appeals Manager

Tel No: 01270 686392

Email: barbara.dale@cheshireeast.gov.uk