

London Borough of Hackney
Scrutiny Panel
Municipal Year 2023/24
Date of Meeting Tuesday 9 January 2024

Minutes of the proceedings of
the Scrutiny Panel held at
Hackney Town Hall, Mare
Street, London E8 1EA

Chair	Councillor Margaret Gordon
Councillors in Attendance	Cllr Soraya Adejare, Cllr Polly Billington, Cllr Ben Hayhurst, Cllr Sharon Patrick and Cllr Clare Potter
Apologies:	Cllr Sophie Conway and Cllr Clare Joseph
In Attendance	Deputy Mayor Anntoinette Bramble , Cabinet Member for Education, Young People and Children’s Social Care; Jacque Burke Group Director for Children and Education (online), Paul Senior Interim Director for Education and Inclusion (DoE), David Court Interim Assistant Director, School Estate Strategy (ADSES), Lucinda Bell Education Lawyer (online), Mayor Caroline Woodley , Cllr Chris Kennedy Cabinet member for health, adult social care, voluntary sector and culture, Cllr Mete Coban Cabinet member for climate change, environment and transport, Cllr Susan Fajana-Thomas Cabinet member for community safety and regulatory services, Cllr Sade Etti Deputy cabinet member for housing needs and homelessness (online), Cllr Sem Moema Deputy cabinet member for private rented sector and housing affordability, Cllr Guy Nicholson Deputy Mayor and Cabinet Member for delivery, inclusive economy & regeneration (online), Cllr Rob Chapman Cabinet member for finance, insourcing and customer service (online), Louise Humphrey Acting Director of Legal, Democratic & Electoral Services and Monitoring Officer, Natalie Broughton Assistant Director of Planning and Building Control (ADPBC) (online), James Goddard Assistant Director Strategy, Assurance and Private Sector Housing, Dominic Cerasoli Policy & Research Officer, Mayor and Cabinet Office Call in members: Cllr Grace Adebayo, Cllr Zoë Garbett, Dalston Ward Councillor and Cllr Alastair Binnie-Lubbock (online) Save Colvestone Primary School: Hazel Capper, Helen James, Carine Lucchese and Mike Cooter (online)
Members of the Public	None.

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Councillor Margaret Gordon in the Chair

1 Apologies for Absence

1.1 Apologies from members of the panel were received from:

Cllr Sophie Conway; and

Cllr Clare Joseph.

1.2 Apologies were also received from:

Cllr Carole Williams, Cabinet member for employment, human Resources and equalities; and

Cllr Clayeon McKenzie, Cabinet member for housing services and resident participation.

2 Urgent Items / Order of Business

2.1 The Chair noted that there was an exempt Appendix in the main item (item 4) should members choose to discuss this we would enter into a closed session under agenda item 6, after the exclusion of public and press. The Chair emphasised that the decision of the Scrutiny Panel would however be made in public.

2.2 There were no other urgent items and the agenda was as previously published.

3 Declarations of Interest

3.1 There were no declarations of interest.

4 Call-In of Executive Decision

4.1 A key element of the scrutiny function is to consider the call-in of a decision of the Executive. A call-in was requested on 18th December 2023, by Councillor Zoë Garbett and supported by four other Councillors:

- Councillor Alastair Binnie-Lubbock;
- Councillor Simche Steinberger;
- Councillor Hershy Lisser;
- Councillor Grace Adebayo.

4.2 The call-in related to the Executive Key Decision taken by Cabinet 11th December 2023 on Key Decision CE S283 - Schools Sufficiency and Estate Strategy. The basis of the call-in was that:

- The decision maker did not make the decision in accordance with the principles of decision making, namely (as set out in Council's constitution under Part 4 Section E 1.2 (a)).

- Proportionality (i.e. the action must be proportionate to the desired outcome).
- Due consultation and the taking of professional advice from officers.

- Respect for human rights.
 - A presumption in favour of openness.
 - Clarity of aims and desired outcomes.
 - Relevant matters have been ignored.
 - Consideration and evaluation of alternatives and reasons for decisions.
 - Due regard to the statutory framework, guidance and Codes of Conduct.
- In making its decision Cabinet failed to consider relevant evidence (as set out in Part 4 Section E 1.2 (d)); and
 - That the decision taken was not in the interests of the Borough's residents and a preferable alternative decision could be adopted (as set out in Part 4 Section E 1.2 (e))

4.3 The Chair reminded the lead Call-in Councillor may not seek to introduce any new additional explanations and the presentation needs to be based on the grounds stated in the call-in papers;

- Due consultation and the taking of professional advice from officers;
- Clarity of aims and desired outcomes;
- Consideration and evaluation of alternatives and reasons for decisions.

Lead Member Call-In Presentation - Cllr Zoe Garbett

4.4 It was acknowledged that the decision to close or merge schools was difficult for all those involved. Cllr Garbett and other call-in members had spoken to school heads and understood the impact that this decision would have on children and families and therefore welcomed this opportunity to further reflect on this process. Cllr Garbett also thanked officers for all their work in the preparation of papers and for the support they have provided to schools, teachers, families and of course those children involved. Cllr Garbett also thanked parents for their ongoing input, reviewing the papers and contributing to this call-in process.

4.5 It is recognised that the call-in process is not to be used lightly, but this decision has been called-in to reflect the deeply held concerns of local residents around school closures and mergers. The meeting is a further opportunity to ensure that residents' views are represented in this decision, which is important to maintain trust in wider decision making processes.

4.6 This was not a call-in of the full decision as the consultation process has impacted schools differently. The call-in therefore focused on those decisions:

- (3.1.3.) To close (discontinue) Colvestone Primary School from September 2024, guaranteeing all children a place at Princess May Primary School if they want it.
- (3.1.4.) To close (discontinue) Baden Powell Primary School from September 2024, guaranteeing all children a place at Nightingale Primary School if they want it.

4.7 Most of the councillors included within the call-in represented those wards which are directly impacted by the proposed closure and or mergers, and seek to represent those parent groups of these respective schools which had approached them. The call-in is asking the scrutiny panel to refer the part of the decision back to Cabinet for reconsideration (Colvestone and Baden-Powell Primary School), particularly in relation to the alternatives which will be presented later.

4.8 Cllr Garbett then proceeded to set out the evidence for individual grounds for the member call-in in relation to 'due consultation':

- The response to the consultation has been consistently negative yet this does not seem to have impacted the decision;
- No information was provided to stakeholders on how the consultation information would be used;
- No advice was given on what information would be helpful and that which may influence the final decision;
- There was insufficient promotion of the consultation;
- The extended consultation period (over 3 months) gave false hope to stakeholders especially as there was no variation in the final decision taken;
- Under legal definition, due consideration had not been given to the findings of the consultation.

4.9 In the context of the above, the key questions that members of Scrutiny Panel should therefore address were:

- Has due consultation been undertaken?
- What are the outcomes of the consultation and what has it achieved?
- What powers of influence do residents have in local consultations?

4.10 The next ground for the call-in was in respect of 'clarity of aims and outcomes'. The stated aim of the consultation was to reduce surplus capacity which was at 600 school places or 21% of all reception places (January 2023). It was noted that the informal cap of school places reported in November 2023 meant that there were now 439 places. It was also noted that the new PAN for Nightingale Primary was 60 places which meant that there would be no net reduction in surplus places when Baden Powell merged with this school, as both previously had a PAN of 30 places. This action was therefore contrary to the desired outcome. It was suggested that there was a similar situation with the merger of Colvestone (30 PAN) and Princess May (60 PAN), where there would be no reduction in overall surplus as Princess May already was already operating an informal 30 PAN.

4.11 In the context of the above, the key questions that members of Scrutiny Panel should therefore address were:

- What were the aims of these decisions?
- How do these decisions help and support this aim?
- What reduction in PAN is actually being achieved?
- Why is there a focus on the official school PAN number when parents are required to operate within informal school PANs?
- What is the cost benefit analysis for these proposals and what were the criteria used to justify these decisions as these appear to vary for different schools?

4.12 The next ground for the call-in was the consideration of alternatives. At a Cabinet meeting, Cllr Garbett noted that there was a longer list of schools which might have been considered in the scope of these rationalisation decisions, but these were not brought in early enough to be a realistic alternative. There were also no alternatives derived from the consideration of all schools on a school by school basis. During the consultation alternatives to closure and merger were suggested including additional dedicated SEND provision onsite or further efficiency savings, but these are not reflected in the decision.

4.13 A further ground for the call-in was that Cabinet has 'failed to consider relevant evidence'. Here it was cited that Cabinet had failed to consider the PAN evidence (referred to above), and in respect of Colvestone, due diligence had not been undertaken as the Cabinet decision makes no reference to any analysis of the deeds

or related covenants on the school building. Furthermore, insufficient consideration is given the evidence from the Dalston Plan which details house building in the area which may affect future school numbers is not reflected in calculations. Whilst the council accepted the GLA projections for pupil numbers, it did not appear to recognise the GLA population yield calculator which suggests an additional 100 primary school children and 150 children age 0-4 years would be created. There have also been outstanding building works on the Colvestone site which may have impacted on parents' decision not to choose this school.

4.14 Finally, this decision was 'not in the interests of the borough's residents'. The December Cabinet report indicated that there are sufficient vacancies to cover demands from the four schools, but did not give adequate consideration to walking distances and access to one-form entry schools. Cllr Garbett acknowledged the work of the CYP Scrutiny Commission, and that some of the questions raised by the Commission mirror those presented in this call-in. It would be helpful to understand if the concerns of the Scrutiny Commission still remain.

4.15 In respect of the above, the call-in requested that this decision be referred back to Cabinet and to consider alternatives where Colvestone is able to take in children from other schools and to assess other options which have not been exhausted. A pause and review of both Colvestone and Baden-Powell is requested with a wider look at the broader picture involving local parents and school staff of schools which should have come into scope at an earlier stage.

Save Colvestone Primary School (SCPS)

4.16 Representatives from SCPS indicated that they would prefer to answer questions in formal debate rather than present to the Commission. It was noted that a lot of the evidence collected via parent's groups was detailed and technical, and it would be more productive to bring this data into the discussion where needed.

Cabinet Member Response - Deputy Mayor Bramble

4.17 DM Bramble responded to the call-in by thanking parents for all their contributions to this work and to officers, who had provided very detailed and informative reports to support this decision. DM Bramble reiterated that the decision to close and or merge schools was an incredibly difficult and was challenging for all parties involved. The Cabinet paper from December clearly set out the Council's position and the reasons why the decisions were being taken.

4.18 In response to issues raised about the consultation process in the call-in, DM Bramble highlighted that formal consultations were required to follow due process and timeframes. In this instance, the consultation on school mergers and closures was much longer than required so as to allow more time to fully engage with local stakeholders.

4.19 Whilst it was acknowledged that the consultation may have caused some displacement of pupils at specified schools, it was emphasised that the consultation process did not trigger falling school rolls, but was a necessary response to falling school rolls. There were over 600 surplus reception places in Hackney, or 21% of all school reception places. The GLA recommends that surplus places should be kept to between 5-10% of all local reception places, so even at the highest figure, the surplus in Hackney was twice that recommended.

4.20 It was not accurate to state that the consultation was not legal or lawful as the process had been supported by both legal and governance teams within the council. DM Bramble also noted concerns around not all schools being in the scope of this rationalisation of provision. The council did not have the authority to change or vary provision at non-maintained schools and the then Mayor and DP Mayor Bramble had written to the Secretary of State highlighting how problematic this was and the need to extend local authority powers so that all schools can be brought into scope when considering responses to reduce surplus places. Currently, local authorities only had powers in respect of maintained schools, and therefore in school place planning contact with non-maintained schools (academies, faith schools, free-schools) was informal.

4.21 In terms of other options considered, a number of alternative plans were viewed but all were not viable as they would not result in sufficient increase in income to make schools viable. In terms of SEN provided alongside mainstream provision at Colvestone, this was also not viable because of the schools significant outstanding deficit. In terms of the a proper and due consultation being undertaken, consultation both governance and legal teams were involved to ensure that the appropriate advice and guidance was provided at all stages of the process. There was also evidence about the statutory notice period for the consultation in the December Cabinet report and section 4.20 and 4.23 provides evidence for the due diligence of this process.

4.22 The decision was made around the future sustainability of schools in question. DM Bramble emphasised that the same criteria were used to assess the sustainability of each of the local schools in scope and no other criteria were discussed or brought to her attention in these assessments. All of the schools were brought into scope by the application of the same criteria.

4.23 In respect of the questions around the PAN, DM Bramble indicated that officers had instituted a number of developments across local schools prior to this specific public consultation. CAPs had been put in place at a number of local schools, which were informal agreements to reduce a schools PAN (for example from a 2 form entry of 60 places to a 1 form entry of 30 places). As these agreements were informal, the original PAN could be restored if demand for places increased in the future.

4.24 Section 4.3 of the Cabinet report indicated what has been done to reduce the surplus of school places within the powers of the local authority. It was noted that the Mayor and DM Bramble had written to central government highlighting a number of key concerns:

- The need to provide schools experiencing falling rolls with additional funding: whilst it was acknowledged that funds had been provided, these were insufficient to sustain schools through these financial pressures.
- To support school place planning, there was a need for local authorities to be able to consider all schools including faith schools, academies and free schools. Currently, local authorities can only directly effect change in schools maintained by the council.

4.25 In response to questions in the call-in around the distance between respective schools in scope for closure and proposed merger alternatives, schools. This was assessed by officers and every school was within the statutory walking distance of children's homes (2 miles for younger children under the age of 8, and 3 miles for older children). It was assessed that the average journey time to school for children transferring from Colvestone to Princess May would increase by 3 minutes.

4.26 In respect of the Deeds to Colvestone School, officers had consulted with the archive and details could be traced back to 1905, and analysis of this by officers indicated that charitable groups did not have a priority over other groups. If information was not shared to date, this was because this might compromise possible future tenders going forward.

4.27 Officers from Hackney Education had worked closely with the Planning department around the possible implications of the Dalston Plan and school places requirements. Here it was noted that if all the proposed dwellings included child occupants it would not bring sufficient increase in demand for school places at the right time to make Colvestone viable.

4.28 The Blossom Federation provided new leadership for Colvestone Primary School after the departure of the previous head. Whilst the experience and expertise of the Federation had a positive impact on the school, it was not enough to turn the school around to be viable and financially sustainable.

4.29 DM Bramble concluded by emphasising that schools were well respected and loved institutions and play a big part within local communities. It was however important for the council to act, because everything that was valued about local schools would be under threat if no decisions were made.

Point of Order

The Chair noted that Cllr Soraya Adejare was late attending, the call-in presentation had been missed and could therefore not vote in the Scrutiny Panel decision at the conclusion of the meeting. Upon further advice from the Monitoring Officer, it was agreed with Cllr Zoe Garbett (lead call-in member) that the call-in presentation would be given to Cllr Adejare who, upon confirmation that she had read it, could be included in the decision-making process of Scrutiny Panel.

Questions from the Panel

4.30 The Chair asked for further details and clarifications on the projection of school places demand for Dalston arising from the Dalston Plan. Can officers set out how calculations were made and what data was being relied upon in formulating these projections? Accepting that demand for school places will not be in time to impact sustainability of Colvestone, what are the schooling plans for additional children in the area?

- (DoE) It was emphasised that Hackney Education had worked closely with both Planning and Strategic Housing in developing projections and subsequent education proposals.
- (ADPBC) The Dalston Plan was consulted upon in May 2021 and is currently being finalised. This was a Supplementary Planning Guidance which sat beneath the Local Plan (LP) and was intended to guide new development in this local area. The DP does not identify new growth but helps to deliver growth already planned for within the LP, which details plans for growth up to 2033. The DP offers more detailed guidance as to how this growth can be delivered in this area. The DP sets out 10 opportunity sites to deliver 600 homes, which are included in local housing targets and broader London Plan. It was important to recognise that these were not additional growth. The Planning Service works closely with Hackney Education and GLA officers (planners and demography), and the GLA have confirmed that they do take into account the growth in future development sites in preparing pupil projections. It

- was confirmed that the Planning Service had provided growth details as set out in the DP to the GLA so these can be factored into local pupil projection figures.
- (ADSES) Local projections are not calculated by the local authority but by the GLA, using a varying range of databases and calculations, on data supplied by local authorities. Neither the local authority or the planning service calculates the child yield, this is undertaken by the GLA. This was a technical calculation undertaken by the GLA and used by all local authorities.
 - (DoE) There would be a limited yield from the new developments, as the overall GLA projections for Hackney and many other inner London boroughs was a reduction in pupil projection for medium to long-term (8-9 years). The GLA projections were that surplus places which were currently at 22% would increase to 25%, 28% and 31% over the next 10 years, so there will be sufficient capacity in the system to meet local needs.
 - Cllr Garbett asked if the Hackney wide GLA projection was compatible with possible new development and child yields that may result from the Dalston Plan, and whether all relevant new development had been included within that local SPG?
 - Mike Cooter (SCPS) - It was unclear whether the DP reflected all planned new development in that area, as it was suggested that the GLA only used data relating to planned development in the planning system.
 - (DoE) It was reiterated that the DP did not set out any new growth and there would be limited growth if the 'child yield' overall, as many of the new developments were likely to be occupied by single person households. All local authorities were signed up to this process and contributed data to the GLA projections. The system is transparent, fair and equitable.

4.31 (Cllr Hayhurst) Cllr Garbett was asked to provide further information about the issue the call-in was raising about whether the PAN might be impacted by the merger of schools? Was there any dispute around the data in the Cabinet report at 4.37 - which set out the current numbers for respective schools?

- (Cllr Garbett) The call-in raised the issue of the PAN in relation to what was the point of this exercise if not to reduce numbers; if the PAN numbers would remain unchanged by the merger of Colvestone with Princess May and Baden Powell with Nightingale. It was noted that whilst there was a Hackney wide figure of 600 surplus places, this was not the experience of local parents trying to find schools for their children as some schools were offering places below the PAN.
- (SCPS) Pointed out that the table at 4.37 was the number of children at the school, not the actual PAN which would be larger. These were different figures.
- (SCPS) Suggested that the table is evidence of how damaging the consultation had been to student numbers at the schools in scope for this decision.
- (DoE) Noted that the papers for the School Estates Strategy have been to Cabinet in May 2023, September 2023 and December 2023 and would have contained data on the number of children at the schools in question at that time. The May report is referenced as an appendix in the December report.

4.32 The Chair asked for clarification on what the impact would be of the proposed closures and mergers detailed within this decision, on the 21% surplus capacity figure?

- (ADSES) If the decision goes forward, the net effect (factoring closures, mergers and increasing PANs) will be a reduction of 105 places from the previous 600 surplus places. Thus there would be net 495 surplus places at the end of this process.

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- (ADSES) In terms of questions around capping and the PAN, all schools must publish the number of children they are able to admit (PAN). Where a school has admitted a total of children consistently below the PAN, it may experience financial challenge, so an informal agreement may be reached to cap numbers (e.g. from 60 to 30) so that education can still be offered efficiently (i.e. the need to employ two teachers for an intake of 32). All the school place planning that takes place is based on the formal PAN of individual schools, and the GLA uses the total PANs for the total projections. In the case of increasing the PAN at Nightingale to 60 to accommodate the merger of pupils from Baden-Powell, it has benefits for the local authority as the school is a two form entry and ensures that the whole school site is fully utilised. Making best use of the school estate is central to the proposals, by rationalising schools and places so that remaining schools are operating at optimum levels to ensure future sustainability. There is an explicit requirement of the local authority to match the supply and capacity of local schools to meet projected future demand for school places so that the authority is making best use of school resources.
- DM Bramble outlined the organisational and financial challenges that a one form entry school faced when experiencing falling school rolls, whereas a two form entry may have greater flexibility to respond. It was also noted that one of the criteria which was used to bring schools into scope for this decision, was the current financial deficit. For these schools, the real challenge was how they could remain sustainable with low numbers and have a high financial deficit which the school has also to address.

4.33 (SCPS) It was important to have a parent's perspective of the operation of the PAN, as it was clear that a number of schools were already operating unofficial PANs different to that detailed in the Cabinet report. Thus, whilst Princess May has a published PAN of 60, it was already operating as a one-form entry school of 30, and Debeauvoir was operating informally at PAN of 15 despite the published PAN being 30. Many schools around the borough were similarly reducing their PAN to respond to falling rolls and to help address some of the financial challenges associated with this. But whilst the council continued to base its analysis of vacancy assessments on the formal PAN, parents had a very different experience as the informal reductions in school rolls had reduced places and range of school options for their children. Thus in the case of Princess May, there were relatively few vacancies there as this was in effect operating as a one form entry school. Similarly, another alternative to Colvestone was Holy Trinity, which was a 2 form entry school, but informally operating as a one-form entry and was therefore relatively full. With many of the other alternative schools near full or at capacity the options for parents in Dalston were limited. It was also noted that a previous consultation by the council noted that many parents did not want to send their children to a faith school. The fact that faith schools were not included within this scoping process was therefore a source of concern and frustration to local parents. It was suggested that it would be difficult to address the surplus places issue across Hackney without including faith schools in rationalisation plans.

- (DoE) Panel members were reminded that the Mayor and DM Bramble wrote to the government highlighting the challenges that local authorities face in school place planning, and specifically highlighting the need to ensure that non-maintained schools should be brought within the ambit of this duty. The duty should be on whole school system management rather than focus on maintained schools. Thus whilst there were 58 local primary schools in Hackney, the local authority did not have the jurisdiction to decide on school place planning issues across all schools, just maintained schools. In respect of the faith schools, the local authority was in discussion with respective Church of

England (CoE) and Roman Catholic (RC) Diocese and there were planned processes in place which may mean that some faith schools may fall into scope in the next 1-2 years. It was clear that a number of faith primary schools were experiencing similar challenges, but there was a different process with school place planning operated by respective Diocese. Both the RC and CoE had been proactive in engaging with the local authority in the matter of falling school rolls. It was important not to look at different sectors of schools but to view all local schools as part of a wider system of education.

4.34 (SCPS) A point of clarification was raised in respect of family housing, as there was documentation within the Local Plan (LP33) which states that there would be an additional 200 family homes developed within the Colvestone School catchment area. If this was the case, where would these children receive their education?

- (ADPBC) Returning to the GLA population projections, these were projections provided for all London boroughs and these calculations did take into account stamped planning permissions for sites that have not yet been implemented. The GLA also takes into account other known sites and the GLA have their own evidence for this: strategic housing land availability assessment which is used to identify the capacity for housing growth across London. This is the key evidence that informed the Local Plan housing target and London housing target. London boroughs then also send in individual housing projections as they become aware of sites.
- (ADPBC) The figure of 200 family homes has come through the GLA pupil projections based on the information provided by the local authority to them. This is data provided by the GLA and is not calculated locally.

4.35 (SCPS) Parents from Colvestone Primary School noted that one of the call-in grounds was the 'consideration of alternatives' to school merger or closure. It was therefore disappointing that this was not a whole education system review and that a long list of schools was not published earlier for a more rounded discussion. It was also frustrating to learn that Hackney Education had been in discussions with the Diocese throughout the past year, and before conversations with parents, yet no proposals had come forward regarding local faith schools.

4.36 The Chair asked if DM Bramble or officers could respond to parental concerns about finding appropriate alternative schools in the Dalston area which were not faith schools?

- (DoE) Hackney had many reasons to be proud of local schools as 98% of all schools were good or outstanding, and in this context many of the schools are able to provide a fair and comparable offer to children. It was reiterated that the alternative school was fair and comparable, but there are many other schools which parents may choose as is their right.
- DM Bramble noted that the concern around the operation of informal caps had been received, but it was reiterated that the aim of this was to give schools flexibility to respond to changing patterns of demand.
- (ADSES) In Hackney there were too many primary schools which were of 3 form entry or two form entry which were only filling to one form entry and this meant that there were a lot of empty spaces in local schools. Schools found it very challenging to manage large sites with fewer pupils, and lower income. Given its size, the Princess May can easily accommodate a two form entry of pupils and will be a more efficient use of the estate. The authority could not sustain 58 primary schools with a surplus of 600 places, which in the longer

term would mean financially unsustainable schools which would be damaging to local children's education.

4.37 Cllr Grace Adebayo noted that in the public consultation 92% of residents were opposed to the merger of Colvestone Primary School, yet the decision to proceed was confirmed at Cabinet. In this context, did the views of local people not count? In consultation with parent representatives at Colvestone, it was also noted that parents had difficulty in getting places for children at Princess May in year 4, when places were supposed to be guaranteed? It was also noted that 24% of children at Colvestone were SEN pupils, so would it not be appropriate to convert the school to a Special School?

- DP Bramble responded that additional SEND provision was considered for all schools in scope as a means of developing pupil numbers on site, but assessments had shown that was not feasible (adaptations and site suitability). The school could not close and reopen as a specialist school, as this 'free school presumption' would mean that this would not be a maintained school but operate independent of the council.

4.38 Cllr Billington noted that parents were not challenging the need to reduce surplus places, but were questioning the application of the criteria applied to bring schools into scope, and if there were exceptional circumstances in the case of Colvestone which should have been considered but were not, and therefore the criteria was applied unfairly. Could the executive respond to this?

4.39 Cllr Billington also challenged parents present about their concerns with the quality and scope of the consultation. If parents believed that the consultation framework, which was used for all schools was improper or invalid, then this must be the case for all four schools. It was therefore not clear, as to what the call-in was focused almost entirely on challenging the Colvestone school merger, and not the other schools included in these proposals. Cllr Billington also requested clarification from parental representatives on the legal requirements which they believed the consultation did not comply with?

[At this point, Cllr Billington also declared an interest in that she was a ward Councillor in De Beauvoir ward, in which the De Beauvoir primary school was proposed for closure.]

- (SCPS) Parent representatives set out the legal guidance on consultation 'that if a public chooses to consult it must do so lawfully and must confirm to basic requirements (or the Gunning Principles):
 - Consultation must be at a time when proposals are still at a formative stage
 - Sufficient reasons must be put forward for any proposal to permit "intelligent consideration" and response
 - Adequate time is given for consideration and response
 - The product of consultation is conscientiously taken into account by the decision maker(s)
- (SCPS) Given that the consultation hotline set up to support the consultation was advising parents not to send their children to Colvestone as this was closing this would suggest that there was predetermination. It was also noted that the consultation was erroneously still describing the proposals for Colvestone as a merger, and there was a suggestion that staff and pupils would be amalgamated on a new school site. Under this proposal, both schools would have needed to close and a new school opened, which was not possible

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- under current legislation given that all new schools should be free schools by default. So the proposals should have been termed closures, not mergers.
- (SCPS) In relation to the second proposal to permit 'intelligent consideration' and response, a request for the deeds to the school to be published was denied. Parents had specifically requested the deeds from 1906 from when the LCC took control of the school, which were believed to contain educational covenants from people who have seen them. These documents have still not been made public. It was suggested that if the deeds were not released to protect future financial viability, then there may be provisions within them which may limit further use of the site.
 - (DoE) The views of all stakeholders are important in the consultation process, but unfortunately no new information came forward which would necessitate changing the proposals. It was noted that the Cabinet report of September 2023 set out the meaning of impact of close, merger and amalgamate, and it was reiterated that officers were working to DfE guidance in terms of the language to be deployed. In terms of the staff, this process would mean that all those staff working at the closing school would be at risk of being made redundant as merging children and classes may not result in new jobs being created in the host school. The Hackney family of schools would help where possible to identify opportunities for those staff at risk from redundancy.
 - (SCPS) In relation to Cllr Billington's question as to why only two of the four school decisions were being challenged if the consultation was not valid, parents at Colvestone indicated it was difficult to speak on behalf of other parents. SCPS had tried to engage and meet with other parent groups at other schools to take this action on behalf of all parents impacted by the proposals, but there were no parent groups at the other schools, or where there were, there was limited willingness to engage. It was also suggested that circumstances of Colvestone were different to other schools in scope, such as evidence from the Dalston Plan, 21st Century Street planned for the school (and still going ahead) and the school being a Grade II listed building.
 - (Cllr Binnie Lubbock) Also in response to Cllr Billington's challenge indicated that decisions for all four schools were not called in to help narrow the focus and discussion, but also to help bring more detailed alternatives up for consideration. Again, it was noted that there were not active parent groups present in all schools, but where there was, these had been instrumental in driving challenge to the proposals. Cllr Binnie-Lubbock also indicated that there had been inconsistencies in the consultation, particularly around the use and meaning of language to describe the proposals such as colour, merger and amalgamation. Here it was noted that at a consultation event at Baden-Powell school, it was suggested that staff and pupils would move across to Nightingale (as part of the merger) which was clearly not the case.

4.40 Cllr Billington requested further clarification around the possible inaccuracies in the consultation process from the senior officers and the Cabinet member?

- DM Bramble indicated that the September Cabinet report had made clarifications around the terms merger and amalgamation and what this would mean for respective schools and staff involved. DM Bramble (who was also at the Baden Powell consultation event) had no recollection of the offer to staff to transfer over to the merged school site (Nightingale). It was pointed out that whilst it was hoped that staff at the close schools would apply for any vacancies at the merge school site to help ease pupil transition, it could not legally mandate selection or transfer of staff as these were decisions for leadership and governing bodies of these schools.

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- (SCPS) Felt that the consultation was in name only as there was a real sense amongst parents that they had not been listened to throughout the whole consultation process. Parents at Colvestone indicated that officers could not know how many children would move to Princess May with the merger, as parents had not been asked to set out their response to the proposals.
- (DoE) Reiterated that this was a difficult decision to make for all parties involved, but officers had been working with all stakeholders to try and get the best solution possible for all schools involved. The significant advantage of the Princess May merger was that family groups could move over at the same time, and that friendship groups could also be preserved. It was emphasised that parental choice was central to the education system, and parents would decide what was best for their child.
- (SCPS) Referred to page 224-225 of the December Cabinet report which provided details of the Q & A with staff at Baden Powell where it was inferred that staff at the merged school site would be made up of both schools:
'Any school would and should have staff from both schools due to the number of children migrating across to a new school.'
- (Cllr Binnie-Lubbock reiterated that there had been some misunderstandings as part of the consultation process as the head teacher at Baden Powell had indicated that staff transfer was a red line for engagement in the process. It was noted that officers had to return to Baden-Powell to apologise for this misunderstanding.
- (DoE) Hackney had many high performing schools which were supported by high quality teaching and support staff, and the authority where it could act, would seek to retain such staff in the borough. For the most part however, these decisions were not in the gist of the local authority.

4.41 Cllr Hayhurst sought to clarify parental concerns at Colvestone about the lack of alternative local schools, and specifically, if Princess May had available spaces?

- (SCPS) A survey of parents revealed that 95% of Colvestone families would not send their children to the proposed merger school, Princess May. Indeed, this school had not figured in their initial choices for the primary school selection process. As a result of the lack of willingness of Colvestone parents to choose Princess May, it was unclear what the demand for places would be at the school in September 2024. It was suggested that it could be likely that this school would have an intake of around 40 children, which for a two form entry school would be challenging to manage both organisationally and financially.
- (DoE) Noted that 98% of all schools were good or outstanding, and Princess May was rated as 'good' in its last inspection. It was not appropriate that there should be any discussion about the reputation of individual schools in this process.

4.42 Cllr Patrick asked officers to make clear why Colvestone was not viable for the future? Could an Additional Resource Provision (ARP) for SEND not have been considered for the site?

- (DoE) Section 7 of the Cabinet report sets out the alternatives to the closure of Colvestone which were considered and why they were rejected. The suggested alternatives were mainly short-term fixes but which would not change the longer term viability and financial sustainability of the school. The criteria used for bringing schools into scope were published in 2022, schools were aware of these criteria and these were equally applied across all schools.

- (DoE) Reiterated that a new special school for children could not open on site without this being a free school and outside the jurisdiction of the council? Other alternatives considered and rejected were:
 - Merger on to Colvestone site was rejected as the school did not have a big enough estate for 2 form entry;
 - Merger of Colvestone with other schools in the Blossom Federation was rejected as these schools were too distant;
 - Merging De Beauvoir with Colvestone on the Colvestone site was rejected as at that time, Colvestone would not have had capacity to receive numbers of pupils. The drop in numbers at both schools does make this possible, but was not favoured given the size of Colvestone financial deficit.
- (SCPS) Parents were agreeable to a new ARP at Colvestone and other alternatives that might be considered. The consultation did not set out what information it was seeking to obtain or how it would be used, and this was a missed opportunity to garner information on alternative plans.
- Cllr Garbett questioned the purpose of the consultation of the criteria on what the decision to close or merge schools had already been decided, as it was not clear how the consultation could have varied the outcome.

4.43 Cllr Potter asked for clarification on the guarantee of places for children at Princess May who were moving from Colvestone. When would the informal CAP be removed?

4.44 Cllr Potter also sought additional clarification on the projected 200 new family homes for Dalston cited by SCPC, was this a figure which the Planning Service recognised? If so, had these figures been fed into local demand predictions.

- (ADP) The Dalston Plan sets out plans for 600 new homes in the area which is part of the local housing target in the Local Plan, which is used by GLA to determine London Housing strategy.
- (SCPS) It was pointed out that the Local Plan states 200 of the 600 new homes for Dalston would be 3-bedroom family homes, which would give a yield of 100 children aged 0-4 in the short to medium term.
- (ADP) The pupil projections factor in an assumption of the type of homes which will come forward in development plans. This is a standard methodology across London. The 200 family homes figure would come from the application of the borough wide policy on housing mix and that is the same throughout the borough. In all development, the council seeks to get a mix of homes.

4.45 Cllr Adejare asked if the option for Colvestone and Debeauvoir to merge was made aware to participants in the consultation process?

- (DoE) The deficit at Colvestone School is expected to increase by around £440k over the next 12 months and then will be in excess of £1m. Any ARP provision for SEND pupils would also have to be financially viable and whilst the school is running a deficit of £600k (projected to be £1m) this would not be sustainable. The main purpose of having an ARP is to allow integration between SEND and non-SEND pupils, so if the main school is not viable then this would also make the ARP not viable. It would be improper and the risks too great to set up an ARP with some of the most vulnerable children, only for this to fail with the closure of the main school.
- Mayor Woodley noted that in 2021/22 there was a wide engagement with all schools to ascertain if they wanted to set up an ARP in their school, to provide dedicated support but through a process which was integrated within mainstream education. Assessments were made for all those schools

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- expressing an interest to ensure that the school was financially viable, the nature of the school estate and whether these could accommodate a dedicated on site ARP. ARPs were currently being developed at Nightingale and St Marks primary schools and a SEMH unit was in development at Stoke Newington Secondary School. Colvestone was assessed in this context, but was rejected, and this had been discussed at Cabinet.
- (ADSES) The Cabinet report set out the financial viability challenge of Colvestone Primary School which, by the schools own accounting, is projected to increase to £1m over the next 12 months. It was also noted that this was based on the assumption that the school would have an intake of 30 children each year over the next 3 years. This was the position of the school, not an assessment made by the council.
 - (SCPS) Parents said that these figures were not based on an intake of 30 children per year but based on current figures. The figure presented by the authority demonstrated the financial damage that the consultation process had done to school admissions, and the subsequent impact this had on school finances. Colvestone also ran a surplus in the past 12 months, when 13 other local schools did not. There were 460 children with SEND who were being educated out of borough, therefore even with 300 new SEND placements available in Hackney (as set out in the school estates strategy) this would still leave 160 children with SEND travelling out of borough for their education. Given that the average costs for these out of borough settings was in the region of £60k per annum, these figures dwarfed the financial pressures seen in the budget papers concerning the school closures and mergers. It was also noted that the data in the GLA figures, which used data from the Dalston Plan, were highly specific going to 1002. Given its specificity it was relatively easy to identify the projected increase in the school numbers (school age and pre-school) for Dalston.
 - (SCPS) The council had spent £1m on works to Colvestone Primary School in the past 12 months. In addition, the estimated costs associated with the proposed school closures were £3.4m with a further £1m required for on-site security each year.
 - (DoE) It was noted that Colvestone was only able to run at a surplus with additional investment from the authority and the school failed to achieve the financial targets that were set (to reduce the deficit to £500k). In response to the number of children with SEND who are educated out of the borough, many of these children attend such specialist education that cannot be provided by the local authority. The provision of an ARP in school was to support the council's graduated SEND response in which children with SEND can integrate with other non-SEND pupils and was therefore not for children with acute needs requiring more specialist support. In terms of the £1m investment in Colvestone School, whilst this was a Hackney maintained school, it was incumbent on the local authority to ensure that children were taught within a safe building which was fit for purpose and therefore would have taken that decision to invest as a decision had then not been made on the future of the school.
 - DM Bramble reiterated that a priority for the council was to make sure that children were taught in safe premises. The work of the Blossom Federation in helping Colvestone to manage the school budget deficit was acknowledged, but this task had been compounded further by falling pupil numbers.

4.46 The Chair thanked everyone for attending and responding to all the questions raised at the meeting. The Chair asked the lead Call-in Councillor, Cllr Zoe Garbett, if she wished to add anything further?

4.47 Cllr Garbett made the following points to summarise:

- Colvestone was in a very challenging financial situation and the Blossom Federation had taken over and was beginning to have an impact when the consultation on school closures was announced.
- It was also reiterated that there was concern around the criteria used to bring schools into scope, as well as with aspects of the consultation which has been exported at the meeting.

4.48 The Chair indicated that there was exempt information which would need to be considered in closed session if members wished to discuss this. Members present indicated that it was not necessary to discuss this information and therefore Scrutiny Panel retired to consider its decision. It was noted that there were three possible decisions that Scrutiny Panel may take:

1. Take no further action and the decision to close the two schools in question (Colvestone and Baden-Powell) to take effect immediately;
2. Refer the decision back to Cabinet to reconsider setting out Scrutiny Panel concerns, and Cabinet must take into account these decisions when taking a final decision;
3. Refer the decision to Full Council if it is considered that the matter will have an impact on the Councils budget or policy framework.

4.49 After deliberations, the Chair summarised the position of Scrutiny Panel. In terms of the stated grounds of the call-in to discontinue Colvestone and Baden-Powell Primary School.

- In terms of due consultation and taking advice from officers, the Scrutiny Panel noted the concerns of parents groups and other members, but were satisfied that extensive consultation was conducted and that due consideration was given to responses considered in making this decision.
- In terms of clarity of aims and desired outcome, whilst it was recognised that this was a very distressing situation for all the school communities involved, Scrutiny Panel was satisfied that the council had very clear aims for this decision to reduce surplus places across Hackney.
- In relation to the consideration of alternatives, the panel has heard much about the proposed alternative and gone through these carefully with everyone present. It is disappointing that an ARP is not viable in Colvestone school but satisfied with the reasons as to why this is not a viable option.
- Fourthly, Scrutiny Panel has assessed a wide range of evidence and satisfied that all relevant issues have been considered in this decision, particularly in relation to alternative places being considered and future pupil numbers in the Dalston area.
- Scrutiny Panel is content that the decision was made in the interests of the whole of the residents of Hackney as this would help to ensure the viability of the wider school system for local families.

4.50 The Chair indicated that for the reason set out above, she would recommend that no further action be taken. The Chair then asked individual members to indicate their decision and why:

- Cllr Soraya Adejare - concurred with the decision to take no further action;
- Cllr Claire Potter - concurred with the decision to take no further action;

- Cllr Polly Billington - concurred with the decision to take no further action;
- Cllr Ben Hayhurst - concurred with the decision to take no further action.
- Cllr Sharon Patrick - concurred with the decision to take no further action.

4.51 The Chair confirmed the decision of the Scrutiny Panel:

Agreed: That no further action be taken in respect of the call-in of decision CE S283 - School Sufficiency and Estate Strategy.

4.52 The Chair thanked all parents, officers and members for attending and closed the meeting.

5 Exclusion of the Press and Public

Scrutiny Panel did not have any questions on the exempt item, so there was no need to exclude the press or public.

6 Exempt Appendix

Scrutiny Panel did not have any questions on the exempt item.

7 Any Other Business

There were no urgent items.

The meeting concluded at 10.00pm

Duration of the meeting: 7.00 - 10.00 pm