

MAYOR AND CABINET			
Report Title	Addey and Stanhope School Expansion – Revocation Decision		
Key Decision	Yes	Item No.	
Ward	New Cross, Whole Borough		
Contributors	Executive Director for Children and Young People		
Class	Part 1	Date:	18 April 2018

1. Summary

- 1.1 This report follows on from the Mayor and Cabinet report of 10 January that resulted in the decision to conduct the Publication and Representation period associated with revoking the decision to expand Addey and Stanhope School from 4 forms of entry to 6 forms of entry (from 120 to 180 pupils per year) as of September 2019 due to current and predicted flattening in demand for secondary school places.
- 1.2 This report provides the results of that period of statutory representation and then goes on to seek a decision from the Mayor (as LA Statutory Decision Maker) to revoke the previous decision to expand Addey and Stanhope School.

2. Purpose

- 2.1 The report feeds back on the representation period for the revocation proposal and seeks a decision from the Mayor regarding revocation of the previous decision to expand Addey and Stanhope School from 4 to 6 forms of entry, due to current and predicted flattening in demand for secondary school places.

3. Recommendations

- 3.1 The Mayor is recommended:
- 3.2 to note the results of the period of representation on the proposal to revoke the decision to expand Addey and Stanhope School;
- 3.3 to agree to revoke the decision to expand Addey and Stanhope School from 4 to 6 forms of entry.

4. Policy Context

4.1 The contents of this report are consistent with the Council's policy framework. It supports the achievements of the Sustainable Community Strategy policy objectives:

- ***Ambitious and achieving*** – where people are inspired and supported to fulfil their potential.

The proposed recommendations are also in line with the Council's corporate priorities:

- ***Young people's achievement and involvement*** – raising educational attainment and improving facilities for young people through partnership working.
- ***Protection of children*** – better safeguarding and joined up services for children at risk
- ***Inspiring efficiency effectiveness and equity*** – ensuring efficiency, effectiveness and equity in the delivery of excellent services to meet the needs of the community

4.2 The Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory school age and, within financial constraints, accommodation that is both suitable and in good condition.

4.3 In aiming to improve on the provision of facilities for education in Lewisham which are appropriate for the 21st century, the implementation of a successful school places strategy will contribute to the delivery of the corporate priority *Young people's achievement and involvement: raising educational attainment and improving facilities for young people through partnership working*.

4.4 It supports the delivery of Lewisham's *Children & Young People's Plan* (CYPP), which sets out the Council's vision for improving outcomes for all children and young people, and in so doing reducing the achievement gap between our most disadvantaged pupils and their peers. It also articulates the objective of improving outcomes for children with identified SEN and disabilities by ensuring that their needs are met.

Place Planning Strategy 2017-22

4.5 A priority in the recent Lewisham Education Commission Report was for the Council to develop a new 5 year Place Planning Strategy that succeeded the Primary Strategy for Change. Officers reviewed what had gone on before and what needs to be achieved in the future, and the draft strategy went through a public consultation process. The strategy was approved by Mayor and Cabinet on 22 March 2017.

4.6 Within the new strategy the council committed to constantly review its forecasting to ensure that the necessary supply of educational places was as accurate as possible, as both undersupply and oversupply can have knock on effects on school standards and finances.

4.7 Following a re-assessment of forecasting post National offer days for both Secondary and Primary applicants and the Summer Term Schools Census a

proposal was put forward, and agreed by the Mayor (19 July 2017) to delay the implementation of the Addey and Stanhope expansion.

- 4.8 Further revisions to forecasting over the Summer, coupled with analysis of the Autumn Census data have since been completed (see section 6).

School Organisation Requirements

- 4.8 Proposals to establish additional provision on a permanent basis must comply with the provisions set out in *The Education and Inspections Act 2006 (EIA 2006)* and *The School Organisation (Prescribed Alterations to Maintained Schools)(England) Regulations 2013*. These set out the statutory process for making changes to a school, and statutory guidance on making changes to a maintained school indicates 4 stages to making a prescribed alteration to a maintained school. These are:

- 1) Publication of a Statutory Notice
- 2) Representation period
- 3) Decision making
- 4) Implementation

- 4.9 However, it is seen as good practice to have a period of more informal consultation before publishing a statutory notice, to enable officers to have a proper conversation with the local community regarding possible expansion and to enable the Mayor to have a fuller understanding of local opinion prior to entering into the formal statutory process.

- 4.10 Where a proposed expansion involves an additional site (as is the case with Addey and Stanhope) additional elements are added to the process to show that we are not in effect opening a new school, which should therefore be created under the 'Free School presumption'

- 4.11 These elements to be considered within any proposal need to focus on the following questions;

The reasons for the expansion

- What is the rationale for this approach and this particular site?

Admission and curriculum arrangements

- How will the new site be used (e.g. which age groups/pupils will it serve)?

- What will the admission arrangements be?

- Will there be movement of pupils between sites?

Governance and administration

- How will whole school activities be managed?

- Will staff be employed on contracts to work on both sites? How frequently will they do so?

- What governance, leadership and management arrangements will be put in place to oversee the new site (e.g. will the new site be governed by the same governing body and the same school leadership team)?

Physical characteristics of the school

- How will facilities across the two sites be used (e.g. sharing of the facilities and resources available at the two sites, such as playing fields)?
- Is the new site in an area that is easily accessible to the community that the current school serves?

- 4.12 Additionally the proposal for Addey and Stanhope had to be sent to the School Organisation department within the DfE for monitoring purposes, to enable them to be satisfied that this was a genuine school expansion.
- 4.13 Regarding Stage 4: Implementation, the proposer must implement a proposal in the form that it was approved (in this instance expanding Addey and Stanhope School from 4 to 6 forms of entry ready for September 2018), taking into account any modifications made by the decision maker.
- 4.14 In this instance the Mayor as decision maker, made a modification post determination on 19 July 2017 to delay implementation of the expansion by 1 year to September 2019.
- 4.15 Further revisions to forecasting have since been made, alongside additional analysis of new Schools Census data, which collectively point to further delay regarding the need for Secondary places. As such, it is now considered that the best course of action is to revoke the decision to expand the school. To do this, the Publication, Representation and Decision stages of the statutory process had to be repeated with the new (revocation) proposal, to then allow the Mayor (as LA Statutory Decision Maker) to revoke the original decision to expand the school.

5. Approach to school expansion

- 5.1 Regarding school expansions, Mayor and Cabinet and the Children and Young People Select Committee have received regular reports detailing the pressure on School places (typically primary) and the measures taken to increase supply. These reports have also highlighted the impending pressure on secondary places as a result of the primary bulges moving through the system, coupled with additional pressure on secondary places in neighbouring local authorities (currently Lewisham is a net exporter of secondary age pupils).
- 5.2 Historically these have usually been in the form of permanent whole-school expansions or the introduction of either temporary or permanent single year group expansion (bulge classes). However, these have usually been primary school expansions in which we have a much larger portfolio upon which to look to accommodate expansions. Within Secondary schools it is believed that only permanent expansions are really viable due to timetabling constraints.

6. Forecasting, demand and viability – further change

- 6.1 2017 had already seen a collective drop in school applications for both primary and secondary. Whilst there was a small dip in primary applications predicted, the scale was larger than expected across London. It was expected however that secondary applications would rise as a result of a larger number of Lewisham children reaching secondary transition age.
- 6.2 With regards to secondary places, original forecasting predicted that Lewisham would require 2641 places for 2017/18, leaving a surplus of just 51. On national offer day a total of 2368 offers were made, leaving 324 spare places available, some of which will be used for late and in-year applicants, but the surplus places are potentially over 6 times higher than previously forecast.
- 6.3 New Greater London Authority forecasting data received in late spring suggested that just 2414 places would be required in 2017 - which implied 46 of the surplus places would be taken up during the year, which still leaves us 227 places below previous forecasts. This uncertainty exists across London and not just in Lewisham.
- 6.4 This was in spite having the highest cohort of primary pupils moving through to transition than ever before as a result of the prolonged increase in birth rate and demand for primary education in Lewisham.
- 6.5 It is believed that some of this unpredictability can be attributed to the impact of the Brexit vote which has caused an outflow of families from London (certainly registered births are not transitioning into reception applications) and also the impact of one of our Secondary schools being subject to an academy order (the results of which are out of our control) as this has had an adverse impact on the public perception of Lewisham secondary schools leading to an even greater 'net-export' rate for year 7 places.
- 6.6 This means that the future is uncertain, and demand for secondary places is not rising as previously expected. These fluctuations are occurring in many London boroughs.
- 6.7 Since the time of the previous Mayor and Cabinet decision to delay implementation of the proposed expansion we have received further forecasting information and also the results of the Autumn Schools Census.
- 6.8 The revised forecasting data continues to suggest a lower than expected requirement for Secondary places over the coming 5 year period. Indeed this is borne out by the Autumn Census data which showed 2282 pupils in Year 7 within our Secondary schools, a further 86 places fewer than were offered on National Offer Day. In addition, preliminary analysis of 2018 Secondary applications suggests that there will be further stagnation in secondary pupil numbers for next year.
- 6.9 Given that the impact of vacant places on individual schools finances is exacerbated as a result of increasing revenue budget pressures, it is imperative that we attempt to minimise oversupply within the system.

Therefore, given the new data available and the initial analysis of applications for 2018/19 it is officers' recommendation to revoke the decision to expand Addey and Stanhope School. This recommendation is supported by the Governing Body of Addey and Stanhope School.

7. Publication and Representation

- 7.1 The statutory notice and proposal to revoke the decision to expand Addey and Stanhope School were published on 2 February 2018, with the representation period running for 4 weeks until 2 March 2018.
- 7.2 During that period we received two responses, one in support and one against.
- 7.3 The response in support stated that if the need is not there, it made sense for the expansion not to go ahead.
- 7.4 The response against suggested that the expansion should proceed in partnership with Drumbeat School to provide much needed places for students with Autism in the north of the Borough.
- 7.5 In response, as the respondent alludes to, the council has also recently conducted an ASD review, from which an action plan has been created which includes a re-assessment of the continuum of ASD support from Mainstream through to very specialist support and is currently working with Lewisham schools to best support that need. However, it should be highlighted that any additional specialist places for pupils with Autism (that aren't mainstream) would need to be considered as either an expansion of an existing ASD school, a new school or as a resource base within a mainstream school. All of these options would require a separate statutory process to be followed with new proposals, and cannot be implemented from this specific decision.
- 7.6 As such, given the other response being positive, along with the qualification highlighted in 7.5, officers recommend that the revocation be agreed.

8. Factors relevant to a making a decision on school organisation proposals

When making a decision on a school organisation proposal the Decision Maker must consider the following factors:

8.1 Consideration of consultation and representation period

The decision-maker will need to be satisfied that the appropriate consultation and/or representation period has been carried out and that the proposer has had regard to the responses received. If the proposer has failed to meet the statutory requirements, a proposal may be deemed invalid and therefore should be rejected. The decision-maker must consider all the views

submitted, including all support for, objections to and comments on the proposal.

The consultations have been undertaken in accordance with the statutory requirements. Stakeholders have been involved in the development of the proposal. The notices have been published as required (See appendix 2 & 3). Views submitted, including all support for, objections to and comments on the proposals have been reported to the decision maker.

8.2 **Education standards and diversity of provision**

Decision-makers should consider the quality and diversity of schools in the relevant area and whether the proposal will meet or affect the aspirations of parents, raise local standards and narrow attainment gaps.

The decision maker has received information on the schools in the relevant areas, including the aspirations of parents.

The decision-maker should also take into account the extent to which the proposal is consistent with the government's policy on academies as set out on the department's website.

The government's policy on academies does not apply to this proposal.

8.3 **Demand**

In assessing the demand for new school places the decision-maker should consider the evidence presented for any projected increase in pupil population (such as planned housing developments) and any new provision opening in the area (including free schools).

This proposal does not provide additional places, however the proposal does relate to demand for places and the decision maker has received information relating to current forecasting.

The decision-maker should take into account the quality and popularity of the schools in which spare capacity exists and evidence of parents' aspirations for a new school or for places in a school proposed for expansion. The existence of surplus capacity in neighbouring less popular schools should not in itself prevent the addition of new places.

The decision maker is aware of the quality and popularity of local schools with spare capacity

Reducing surplus places is not a priority (unless running at very high levels). For parental choice to work effectively there may be some surplus capacity in the system as a whole. Competition from additional schools and places in the system will lead to pressure on existing schools to improve standards.

The decision in question is not seeking to reduce surplus places, rather prevent adding additional surplus places to a financially strained system.

8.4 **School size**

Decision-makers should not make blanket assumptions that schools should be of a certain size to be good schools, although the viability and cost-effectiveness of a proposal is an important factor for consideration. The decision-maker should also consider the impact on the LA's budget of the need to provide additional funding to a small school to compensate for its size.

The decision maker has received advice about the financial impact on this school and other local schools as well as on the LA budget, and the negative impact that proceeding with this expansion at present would have.

8.5 Proposed admission arrangements (including post-16 provision)

In assessing demand the decision-maker should consider all expected admission applications, not only those from the area of the LA in which the school is situated.

Before approving a proposal that is likely to affect admissions to the school the decision-maker should confirm that the admission arrangements of the school are compliant with the School Admissions Code. Although the decision-maker cannot modify proposed admission arrangements, the decision-maker should inform the proposer where arrangements seem unsatisfactory and the admission authority should be given the opportunity to revise them.

The proposal will not have any impact on admissions as it is seeking to retain the status quo.

8.6 National Curriculum

All maintained schools must follow the National Curriculum unless they have secured an exemption for groups of pupils or the school community.

The proposal will not have any impact on the National Curriculum as it is seeking to retain the status quo.

8.7 Equal opportunity issues

The decision-maker must have regard to the Public Sector Equality Duty (PSED) of LAs/governing bodies, which requires them to have 'due regard' to the need to:

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations.

The decision-maker should consider whether there are any sex, race or disability discrimination issues that arise from the changes being proposed, for example that where there is a proposed change to single sex provision in an area, there is equal access to single sex provision for the other sex to meet parental demand. Similarly there should be a commitment to provide access to a range of opportunities which reflect the ethnic and cultural mix of the area, while ensuring that such opportunities are open to all.

The proposal does not have any adverse effect on equal opportunity.

8.8 Community cohesion

Schools have a key part to play in providing opportunities for young people from different backgrounds to learn with, from and about each other; by encouraging, through their teaching, an understanding of, and respect for, other cultures, faiths and communities. When considering a proposal, the decision-maker must consider its impact on community cohesion. This will need to be considered on a case-by-case basis, taking account of the community served by the school and the views of different sections within the community.

The proposal will not have any impact on community cohesion as it is seeking to retain the status quo.

8.9 Travel and accessibility

Decision-makers should satisfy themselves that accessibility planning has been properly taken into account and the proposed changes should not adversely impact on disadvantaged groups.

The decision-maker should bear in mind that a proposal should not unreasonably extend journey times or increase transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable walking or cycling routes.

A proposal should also be considered on the basis of how it will support and contribute to the LA's duty to promote the use of sustainable travel and transport to school.

The proposal will not have any impact on travel and accessibility as it is seeking to retain the status quo.

8.10 Capital

The decision-maker should be satisfied that any land, premises or capital required to implement the proposal will be available and that all relevant local parties (e.g. trustees or religious authority) have given their agreement. A proposal cannot be approved conditionally upon funding being made available.

Where proposers are relying on the department as the source of capital funding, there can be no assumption that the approval of a proposal will trigger the release of capital funds from the department, unless the department has previously confirmed in writing that such resources will be available; nor can any allocation 'in principle' be increased. In such circumstances the proposal should be rejected, or consideration deferred until it is clear that the capital necessary to implement the proposal will be provided.

The proposal seeks to revoke the decision to spend capital funding on an expansion, and will therefore free up funds for other more urgent projects..

8.11 School premises and playing fields

Under the School Premises Regulations all schools are required to provide suitable outdoor space in order to enable physical education to be provided to pupils in accordance with the school curriculum; and for pupils to play outside safely. Guidelines setting out suggested areas for pitches and games courts are in place although the department has been clear that these are non-statutory.

The proposal will not have any impact on school premises and playing fields as it is seeking to retain the status quo.

- 8.12 The Mayor is recommended to revoke the decision to expand Addey and Stanhope School.

9. Educational Asset Strategy

- 9.1 The Place Planning Strategy 2017-2022 highlighted the need to assess and review our future educational space needs across the whole spectrum of provision, including nursery, mainstream, special educational needs and alternative provision. This is particularly relevant as opportunities to create additional educational places becomes harder, both in terms of available land/buildings and also factored alongside rising costs.

- 9.2 As a result, the council are developing an Educational Asset Strategy, that will seek to identify how best to meet our needs utilising the assets and funding at our disposal (both educational and otherwise), ensuring that they are put to best use and rationalised effectively.

- 9.3 When complete this strategy will be brought to Mayor and Cabinet for approval alongside the reviewed and revised Place Planning Strategy 2017-2022.

10. Financial Implications

- 10.1 On 22nd March 2017 the Mayor agreed that Addey and Stanhope School should be expanded from 4 to 6 forms of entry with effect from September 2018. The estimated capital costs of the expansion were approximately £7.8m and suitable budget provision was made within the School Places Capital Programme. The revocation of this decision will free up the capital budget provision made for this expansion, and therefore more resources will be available to enable the delivery of other schemes that will result in increased school places across the borough. The vacant Mornington Centre is currently occupied by property guardians.

11. Legal Implications

- 11.1 The Human Rights Act 1998 safeguards the rights of children in the Borough to educational provision, which the Council is empowered to provide in accordance with its duties under domestic legislation.

- 11.2 Section 14 of the Education Act 1996 obliges each local authority to ensure that there are sufficient primary and secondary school places available for its area i.e. the London Borough of Lewisham, although there is no requirement that those places should be exclusively in the area. The Authority is not itself obliged to provide all the schools required, but to secure that they are available.
- 11.3 In exercising its responsibilities under section 14 of the Education Act 1996 a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.
- 11.4 The Education and Inspections Act 2006 places requirements on Authorities to make their significant strategic decisions concerning the number and variety of school places in their localities against two overriding criteria:
- to secure schools likely to maximise student potential and achievement;
 - to secure diversity and choice in the range of school places on offer.
- Section 19 of the Education and Inspections Act 2006 provides that where a local authority or the governing body of a maintained school proposes to make a prescribed alteration to a maintained school and it is permitted to make that alteration, it must publish proposals.
- 11.5 The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 provide that proposed enlargements of school premises which would increase the capacity of the school by more than 30 pupils and by 25% or 200 pupils (whichever is the lesser), is a prescribed alteration which means that statutory proposals have to be published, and there must be a period of four weeks for representations before a decision is made. This does not apply to temporary enlargements where it is anticipated that the enlargement will be in place for less than 3 years, or a rise in the number anticipated lasting only one year.
- 11.6 The Mayor as the decision maker approved the expansion of Addey & Stanhope School on the 22nd March 2017 with an implementation date of September 2018. There has been a modification post determination to delay the implementation of the expansion at Addey & Stanhope School by a year to September 2019. Where statutory school organisation proposals are approved, the proposer must implement the proposal in the form that it is approved, taking account of any modifications made by the decision maker.
- 11.7 Where the proposal cannot be implemented because circumstances have changed so that implementation would be inappropriate or implementation of the proposal would be unreasonably difficult, the proposer must publish a revocation proposal to be determined by the decision-maker, to be relieved of the duty to implement. Since the modification decision by the Mayor in July 2017 circumstances have so altered that the local authority believe implementation of the expansion at the school would now be inappropriate.
- 11.8 In circumstances where a proposer seeks to be relieved of the duty to implement a determined proposal, the proposer must publish a revocation proposal containing prescribed information by placing on a website and notification of the revocation proposal in a local newspaper. Any objections or

comments must be sent to the local authority within four weeks of the date of publication by the local authority.

Equalities Legislation

- 11.10 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.11 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 11.12 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 11.8 above.
- 11.13 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 11.14 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

www.equalityhumanrights.com/en/advice-and-guidance/equality-actcodes-practice

www.equalityhumanrights.com/en/advice-and-guidance/equality-acttechnical-guidance

11.15 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
The essential guide to the public sector equality duty
Meeting the equality duty in policy and decision-making
Engagement and the equality duty: A guide for public authorities
Objectives and the equality duty. A guide for public authorities
Equality Information and the Equality Duty: A Guide for Public Authorities

11.16 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

www.equalityhumanrights.com/en/advice-and-guidance/public-sectorequality-duty-guidance#h1

12. Crime and Disorder Implications

12.1 There are no crime and disorder implications.

13. Equalities Implications

13.1 This report supports the delivery of the Council's Equalities programme by ensuring that all children whose parents/carers require a place in a Lewisham school will be able to access one.

14. Environmental Implications

14.1 There are no environmental implications.

15. Background documents

Appendix 1 – Responses from Representation Period.

Appendix 2 – Revocation Notice

Appendix 3 – Revocation Proposal

Appendix 4 – Statutory Guidance for Decision Makers

Revocation of Expansion – Addey and Stanhope School – Permission to conduct Publication and Representation stages – 10.1.18

<http://councilmeetings.lewisham.gov.uk/documents/s54455/Addey%20and%20Stanhope%20Revocation.pdf>

Modification of Decision – Addey and Stanhope School Expansion – Decision M&C report – 19.7.17

<http://councilmeetings.lewisham.gov.uk/documents/s51405/Modification%20Addey%20and%20Stanhope.pdf>

Ashmead Primary School AND Addey and Stanhope School Expansions – Decision M&C report – 22.3.17

<http://councilmeetings.lewisham.gov.uk/documents/s48856/Ashmead%20Primary%20School%20and%20Addey%20Stanhope%20School%20Expansions%20Feedback%20from%20representation%20periods%20a.pdf>

Ashmead Primary School AND Addey and Stanhope School Expansions – Results of Consultations M&C report – 11.1.17

<http://councilmeetings.lewisham.gov.uk/documents/s47360/Ashmead%20and%20Addey%20Stanhope%20School%20Expansions.pdf>

Addey and Stanhope School Permission for Consultation M&C report - 28.9.16

<http://councilmeetings.lewisham.gov.uk/documents/s45567/Addey%20and%20Stanhope%20Secondary%20School%20Expansion%20Proposal.pdf>

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