

MAYOR AND CABINET			
Report Title	Modification to Decision to expand Addey and Stanhope School – Delayed implementation		
Key Decision	Yes	Item No.	
Ward	New Cross, Whole Borough		
Contributors	Executive Director for Children and Young People		
Class	Part 1	Date:	19 July 2017

1. Summary

- 1.1 This report follows on from the Mayor and Cabinet report of 22 March 2017 that asked the Mayor to make a decision on the expansion of Addey and Stanhope School from 4 forms of entry to 6 forms of entry (from 120 to 180 pupils per year) with an implementation date of September 2018.
- 1.2 This report requests that the Mayor (as statutory LA decision maker) makes a modification post determination, specifically to delay the implementation date of the expansion by 1 year, from September 2018 to September 2019.

2. Purpose

- 2.1 The report seeks the Mayor's approval to delay the expansion of Addey and Stanhope School from 4 to 6 forms of entry to September 2019.

3. Recommendations

- 3.1 The Mayor is recommended to:
- 3.2 note the reasons for the request for delaying the implementation date from September 2018 to September 2019.
- 3.3 approve the requested modification post determination as the statutory decision maker on behalf of the Local Authority regarding school organisational changes; whereby the implementation of the decision made on 22 March 2017 to expand Addey and Stanhope School by 2 additional forms of entry be delayed by 1 year to September 2019.
- 3.4 instruct officers to publish the details of the modification on the council website where the original proposals were published, in line with the statutory guidance for making prescribed alterations to maintained schools.

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 The first opportunity to re-assess forecasting has recently occurred following the National offer days for both Secondary and Primary applicants and the Summer term Schools Census.

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 we are requesting for the Mayor as decision maker to make a modification post determination. The Statutory Guidance on Making 'prescribed alterations' to maintained schools provides that if it proves necessary, due to a major change in circumstance, or unreasonably difficult to implement a proposal as approved, the proposer can seek modifications (e.g. to the implementation date) from the decision-maker before the approved implementation date. Details of the modification must be published on the website where the original proposals were published.

5. Background

- 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 – what has changed?

- 6.1 2017 has 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 underestimated. 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 forecasting predicted that we 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 The new GLA forecasting data has just been received which suggests that just 2414 places will be required in 2017 - which implies 46 of the surplus places will 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 is despite 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 is having an adverse impact on the public perception of Lewisham secondary schools leading to an even greater 'net-export' rate for year 7 places – currently expected to be close to 40% compared to 35% previously.
- 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 Additionally, the impact of vacant places on individual schools finances is exacerbated since their finances are under ever increasing pressure. It therefore appears prudent to delay the implementation of the Addey and Stanhope expansion

by 1 year so as not to create over-supply issues in our secondary schools, and to allow officers time to better understand the reasons behind the dip in applications.

7. Financial Implications

Capital Financial Implications

- 7.1 This report recommends a delay of 1 year regarding the implementation of the expansion of Addey and Stanhope School from 4 to 6 forms of entry, from September 2018 to September 2019. It is estimated that the capital costs of the expansion will be approximately £7.8m and these costs will be funded from the School Places capital programme. It is not anticipated that a delay in implementing the expansion will result in the project costs exceeding the approved budget.
- 7.2 The School Places capital programme is forecast to have available resources of £15.2m for 2017/18 (comprising Basic Need grant of £10.6m and S106 contributions of £4.6m), £14.1m for 2018/19 (Basic Need grant) and £0.2m for 2019/20 (Basic Need Grant).

Revenue Financial Implications

- 7.3 All on-going revenue costs of running the enlarged school will be met from the resources of the Dedicated Schools Grant.
- 7.4 The vacant Mornington Centre is currently occupied by property guardians, which means the Council is not having to pay security costs, however there will still be a net cost to the General Fund during the period of delay. In 2016/17 financial year, there was approximately £29k of income received from the property guardians, which helped to offset utilities costs and business rates payable of £80k in total. These costs fall upon the revenue budget of the Schools Estate Management service.

8. Legal Implications

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 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.

- 8.5 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.
- 8.6 The Council, before making any decision regarding the expansion of a school, must ensure that capital funding is in place, interested parties have been consulted, the statutory notice is published and there has been a four week period for representation. 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.
- 8.7 Where circumstances arise where it proves necessary, due to a change in circumstance, or it is unreasonably difficult to implement a proposal as approved, the proposer can seek a modification from the decision maker before the approved implementation date. It is not possible in law for a modification to be used to substitute new proposals for those which have been consulted on, published and in this case approved by the Mayor.
- 8.8 The deferral of the implementation date by one year is capable of being a modification subject to the Mayor being satisfied that to do so is a reasonable exercise of his discretion on a consideration of all relevant matters and disregarding irrelevancies and having regard to all Guidance that the is statutorily required to consider.

9. Equalities Legislation

- 9.1 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.
- 9.2 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.
- 9.3 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 9.2 above.

9.4 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.

9.5 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

9.6 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

9.7 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

10. Crime and Disorder Implications

10.1 There are no crime and disorder implications.

11. Equalities Implications

11.1 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.

12. Environmental Implications

- 12.1 Every effort will be made to enhance rather than detract from school environments in the solutions to providing additional school places.

13. Background documents

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>

If there are any queries on this report, please contact Matt Henaughan, Service Manager, School Place Planning on 0208 314 8034