

# MODIFICATION TO A CONDITION FOR ENLARGING WHITEHALL INFANT AND JUNIOR SCHOOLS

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<b>Cabinet Portfolio</b>	Education and Children's Services
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<b>Papers with report</b>	None

## HEADLINE INFORMATION

<b>Purpose of report</b>	To modify the condition of obtaining planning permission for enlarging Whitehall Infant and Junior Schools.
<b>Contribution to our plans and strategies</b>	Development and improvement of education in our schools (Council Plan 2007/10)
<b>Financial Cost</b>	None
<b>Relevant Policy Overview Committee</b>	Education and Children's Services
<b>Ward(s) affected</b>	Brunel, Uxbridge North, and Uxbridge South,

## RECOMMENDATION

**That Cabinet agree to modify the date for meeting the condition of obtaining planning permission, from 15th April 2011 to a new date of 1st July 2011.**

## INFORMATION

### Reasons for recommendation

In November 2010, Cabinet conditionally approved statutory proposals to enlarge several primary schools, including Whitehall Infant and Junior Schools. In accordance with school organisation regulations, each proposal was approved on condition of obtaining planning permission. The date for this condition to be met by was set as April 15th 2011 for each proposal.

However, there is now a risk that the Whitehall Infant and Junior School proposals may not meet this condition by the required date. It is therefore necessary to seek a modification to that condition. The recommendation is to set a later date of July 1st 2011.

## **Alternative options considered / risk management**

The condition of obtaining planning permission must be met by April 15th 2011. This now carries a risk, and if the condition is not modified then the statutory proposals could be challenged and could become invalid. In such circumstances there could be a risk of insufficient primary school places in the Uxbridge North, Uxbridge South, and Brunel wards.

In accordance with school organisation regulations, permission can be sought from the original decision maker (Cabinet) to review a condition and modify the date for that condition to be met.

## **Comments of Policy Overview Committee(s)**

None at this stage.

## **Supporting Information**

1. The proposals for the Whitehall schools have been controversial, drawing substantial local opposition. Many issues can be resolved at the planning application stage. Carefully addressing each concern has contributed to the delay in submitting the final planning application, and this delay has created the risk of missing the conditional date for obtaining planning consent.
2. Paragraph 4.76 of the school organisation regulations (*'Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form'*) explains that the decision maker can amend conditions upon request from the proposers. Such a request is contained in this report.
3. The reasons for enlarging Whitehall Infant and Junior Schools were contained in the report to Cabinet on 18th November 2010, following a period of statutory consultation. The proposals were approved, with three separate conditions each to be met by April 15th 2011:
  - (a) that the Office of the Schools Adjudicator approves a variation to the school's published admission number for September 2011. (The final OSA decision on this condition will be announced in early March 2011. In the meantime, the OSA has now approved the principle of the expansion, following an appeal by the schools).
  - (b) that the relevant admissions authority determines a higher published admission number for September 2012. (As the OSA has upheld the council's decision to expand the schools, this condition will be met because the Local Authority is the admissions authority).
  - (c) that the necessary planning permissions are granted. (There is now a risk that this condition will not be met by the required date).
4. For clarification, the OSA has now upheld the council's decision to expand Whitehall Infant and Junior Schools, and the expansion can proceed from September 2012. However, the OSA is still considering whether the school admission number should increase from September 2011 (the council's preferred date) because of concerns over disruptive building works. A final decision on this aspect is expected to be announced by mid-March 2011.

## **Financial Implications**

The financial implications for the Whitehall proposals were set out in the report to Cabinet on 18th November 2010. This report carries no further financial implication.

## **EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES**

### **What will be the effect of the recommendation?**

The recommendation will support the provision of school places for local residents. The expansion of local schools is necessary to meet the growing demand for primary school places resulting from changes to London migration patterns and increased birth rates.

### **Consultation Carried Out or Required**

The complete statutory consultation for the Whitehall Infant and Junior Schools proposal was contained in the report to Cabinet on 18th November 2010, with the council's deciding to approve the proposals. An appeal was lodged by the Whitehall schools and has been considered by the Office of the Schools Adjudicator, following an evidence taking session on January 27th 2011. The OSA has decided to approve the expansion of the schools from September 2012 but has yet to determine whether the school can expand from September 2011. Separate consultation required for the planning application stage is currently in progress.

## **CORPORATE IMPLICATIONS**

### **Corporate Finance**

Corporate Finance has reviewed this report and note that there are no further financial implications arising from the recommendation in this report. The financial implications of expanding Whitehall Infant and Junior Schools have been considered in previous reports to Cabinet.

### **Legal**

Restated below are the comments below that were provided for the Cabinet meeting on 18 November 2010 and which are still the position.

Hillingdon Council has various duties under the Education Act 1996 to:

- Secure efficient and sufficient schools to meet the needs of the local population in view of the pupils' different ages, abilities and aptitudes.
- Promote high standards.
- Ensure fair access to opportunity for education and training.
- Promote the fulfilment of learning potential.
- Secure diversity in the provision of schools, increasing opportunities for parental choice as well as considering parental representations having regard to any guidance.

The Education and Inspection Act 2006 gives Hillingdon Council powers to alter and enlarge existing school premises which have the effect of increasing the number of pupils for which accommodation can be provided. The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (as amended) provide that where a Local Education Authority is bringing forward statutory proposals (under s.19 of the Education and Inspections Act 2006) to expand a school then it must consult interested parties, and in so doing, must have regard to the Secretary of State's guidance on "Expanding a Maintained Mainstream School by Enlarging or adding a Sixth Form".

Once the consultation process has been completed then Cabinet has the power under the Constitution to determine school organisation proposals where objections have been received, and the Cabinet Member has the delegated power to make that determination if there are no objections. Cabinet also has the power to modify school organisation proposals after a decision has been made, if a request for modification is presented by the proposers before the original determination date.

The consultation process and subsequent decisions of the local authority must have regard to equality and anti discrimination legislation. The Equality Act 2010 is now in force to protect people from discrimination on the basis of protected characteristics. The relevant protected characteristics for local authorities are: disability, race, religion or belief, and sex.

In line with the court decision of R (on the application of Chavda and others) v Harrow Council 2007 decision makers must give due regard to the 2010 Act and to guidance especially when considering disability issues.

Decision makers are referred to non statutory guidance by the Equality Human Rights Commission for public sectors which as a matter of good practice should be considered. Guidance can be found at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties>

### **Corporate Landlord**

The Corporate Landlord supports the recommendations set out in the report which are necessary now that the Schools Adjudicator has reached the conclusion that Whitehall Junior and Infants Schools should be part of the expansion programme.

### **Relevant Service Groups**

None.

### **BACKGROUND PAPERS**

Expanding a Maintained Mainstream School by Enlargement or Adding a Sixth Form - A Guide for Local Authorities and Governing Bodies

Cabinet Report (Item 5) 18th November 2010