

	London Borough of Hammersmith & Fulham CABINET 23 JUNE 2014
REVIEW OF DECISION TO DISCONTINUE SULIVAN PRIMARY SCHOOL AND ENLARGE NEW KING'S PRIMARY SCHOOL	
Report of the Cabinet Member for Children and Education, Councillor Sue Macmillan	
Open Report	
Classification - For Decision	
Key Decision: Yes	
Wards Affected: Town, Sands End, Parsons Green and Walham	
Accountable Executive Director: Andrew Christie, Tri-Borough Executive Director of Children's Services	
Report Author: Ian Heggs, Tri-Borough Director of Schools Commissioning	Contact Details: Tel: 020 7645 6458 E-mail: ian.heggs@lbhf.gov.uk

1. EXECUTIVE SUMMARY

1.1 Cabinet approved a recommendation for the discontinuance of Sullivan Primary School and the enlargement of New King's Primary School on 10 February 2014. In the light of the anticipated increase in the number of residential units in the area following a proposed change of housing policy, and the resultant increased demand for school places, it is proposed to publish proposals to revoke the decision so that, if the proposals were approved, Sullivan would remain in existence and New King's would be unexpanded.

2. RECOMMENDATIONS

2.1. That, in the light of the anticipated increase of affordable rented housing within the South Fulham area in future years, Cabinet agrees to:

- i) Publish proposals to revoke the decision of 10 February 2014, which was to discontinue Sullivan Primary School and enlarge New King's Primary School with effect from 1 September 2014, subject to; planning permissions being granted for both the interim accommodation at the Sullivan site and the proposed extension and remodelling of the New King's Primary School

buildings, and the making of an agreement under section 1 of the Academies Act 2010 for the establishment of a New King's Primary School as an academy.

ii) Modify the current proposals to discontinue Sullivan Primary School and enlarge New King's Primary School by delaying implementation of the proposals to 1 September 2015. This recommendation arises because the 10 February 2014 decision otherwise has to be implemented by the start of the 2014/15 academic year. There will be insufficient time before September 2014 to publish the revocation proposals and consider them after the statutory objection and comment period.

iii) Establish a provision of £200k to fund a programme of capital works at Sullivan Primary School

2.2 That Cabinet considers a further report in September 2014 summarising any comments or objections received during the six-week statutory period of publication of the revocation proposals and decides whether to revoke the original proposals or not. Statutory provisions mean that the only basis on which it can take that decision is if it believes that circumstances have so altered since approval was given on 10 February 2014 that implementation of the proposals would be inappropriate,

3. REASONS FOR DECISION

3.1 The Council's newly proposed policy, as set out in its manifesto, to deliver additional affordable rented housing in the South Fulham area may result in a further need for school places, thus making it inappropriate to implement proposals that would reduce existing capacity through the proposals approved on 10 February 2014. However the previous decision cannot be revoked without the publication of new statutory proposals. Due to the timeline of the current implementation plan (implementation due 1 September 2014), it is deemed necessary to modify the proposals by delaying their implementation to 1 September 2015 in order to provide sufficient time for Cabinet to decide whether to revoke the 10 February 2014 decision. This delay will also provide some certainty to staff, parents and pupils at Sullivan Primary School and at New King's Primary School in particular for the coming academic year, so that staffing and admissions arrangements for September 2014 can be made swiftly and so that standards can be maintained.

4. INTRODUCTION AND BACKGROUND

4.1 Original Decision

On 10 February 2014, Cabinet agreed to implement the proposals for the discontinuance of Sullivan Primary School and the enlargement of New King's Primary School, subject to the following conditions being met by 1 August 2014:

- i) Planning permissions being granted for both the interim accommodation at the Sullivan site and the proposed extension and remodelling of the New King's Primary School buildings, and
- ii) The making of an agreement under section 1 of the Academies Act 2010 for the establishment of a New King's Primary School as an academy.

On 5 February 2014 the Education and Children's Services Select Committee considered the call-in of this decision, and agreed that the Cabinet decision of 20

January be referred back to Cabinet on 10 February 2014. This referral was considered and then reaffirmed by Cabinet on 10 February, at which the reason for their decision was stated as follows:

The primary reason for this decision is historical as well as current surplus places at both New King's Primary School and Sullivan Primary School.

Cabinet is also of the view that the decision to close Sullivan Primary School will ensure the Council does not continue to fund two sites with on-going surplus places and the associated costs attached to those two sites. There is economic sense to having a single school on a single site and ensuring that the savings that will be made can be reinvested directly into children's education in the borough.

Cabinet is of the further view that the final move to the New King's site will ensure an improved educational offer, particularly in the light of its collaboration plans with Thomas' Schools.

4.2 South Fulham Riverside

In January 2013 the Council adopted the South Fulham Riverside Supplementary Planning Document (SPD) that looked at the comprehensive regeneration of the area and the likely growth and change that would take place.

The SPD draws together the development plan policies and other guidance that are relevant to the regeneration area as identified in the Core Strategy and considers the environmental, social, design and economic objectives which are relevant to the future development of the area.

The primary aim of this SPD is to set out an approach to achieve the vision and deliver the objectives in the Strategic Policy for South Fulham Riverside in the Core Strategy. The SPD is a material consideration in the determination of any planning application submitted in the regeneration area.

4.3 Development Infrastructure Funding Study

In June 2011, the London Borough of Hammersmith and Fulham (LBHF) commissioned Jacobs Consulting and Cushman and Wakefield LLP in association with CgMs Consulting to carry out a Delivery and Infrastructure Funding Study (DIFS) for the South Fulham Riverside. The study examined the investment needed in order to support the growth in new homes in the regeneration area and the likely increase in social infrastructure and local community services (education, health, open and play space, community facilities, police facilities and employment and skills training) that would be required to accommodate the increase in population.

The need for the DIFS had arisen following work by LBHF on the South Fulham Riverside SPD and an associated transport study, which concluded that a range of transport and other infrastructure is required to deliver regeneration in the area. The DIFS was required to review the quantum of development that could be undertaken, assess and cost the full range of infrastructure required to support that development, and examine the extent to which that infrastructure could be funded by the developments in the light of the economic conditions bearing on development viability.

The number of new homes assumed as a basis for the DIF study was 4,000 which is based on approximately 21 hectares of sites coming forward for development within

the plan period. The SPD does however state that the assessment of sites and phasing will be regularly reviewed to ensure the infrastructure is in place when new residential units are provided. A separate item on this agenda proposes a review of the Council's Housing Strategy to give effect to the Council's new policy on affordable rented housing.

4.4 Impact of the proposed change to the development at South Fulham Riverside on the need for primary school places

An initial review of the GLA DMAG methodology used to calculate potential child yield from additional housing has been undertaken. This methodology is used by other London Boroughs to calculate child yield for education (and play space) provision purposes. From a housing strategy perspective, where an increase in the supply of additional affordable housing for rent (i.e., allocated on a basis of Housing Allocation Scheme defined need), is envisaged, a significant increase in demand for school places (compared to that for market housing) can be anticipated.

The need for an increase in education provision is addressed in chapter 12 of the SPD. The population growth envisaged as a result of the development of up to 4,000 new homes had been reflected in the previous decision to reduce capacity in the south of the borough by 0.5 forms of entry (FE), equalling 15 places per year, 105 in total, through the closure of Sullivan (1.5 FE) and expanding New King's by 1 FE to 2 FE. The intention was to enable a better concentration of pupils in the remaining two local primary schools, New King's and Langford, and enable a more efficient use of resources (both revenue and the physical resources of the sites and the buildings), with the strategy that linked into the development phasing, with a view to consider extending Langford by 0.5 FE as required linked to the timings of the development programme.

This strategy had also reflected the increased demands that are projected in the infant phases (4-7 year olds) of the education system due to child births and the current pressure in the system across the centre and north of the borough on school places at reception and year 1, that will ultimately increase the demand for places utilising much of the perceived "surplus capacity" in the later age groups.

However, the South Fulham Riverside development has been moving to a higher number of additional units; initially this was assessed to be manageable within the strategy as previously set out with a key assumption that child yield would be reasonably low. This reflects the Council's previous approach around commercial viability and a low proportionality of affordable rented housing (this approach generating a reasonably low child yield)

Table 1: Current approach in South Fulham Riverside (before the change in administration)

	Number of bedrooms				Total Units
	1	2	3	4	
South Fulham Extra 1000 units					
Owner Occupier	150	300	150	0	600
Affordable Rented Housing	0	0	0	0	0
Shared Ownership	10	20	10	0	40
Total	160	320	160	0	640 ¹
	Early Years	Primary	Secondary		
Need for school places expressed as forms of entry for Early Years (2-3 year olds), Primary and Secondary) ²	0.67	0.22	0.09		
Age groups	Ages 0-3	Age 4-10	Age 11-15	Total	
Children totals	48	46	14	108	

¹The remaining 360 units have not been built out and planning consent has not been granted.

²Note that these projections allow for 15% of children being educated in the independent sector

Table 2: Demand pressures from South Fulham Riverside on an affordable rented approach

	Number of bedrooms				Total Units
	1	2	3	4	
South Fulham Extra 1000 units					
Owner Occupier	150	300	150	0	600
Affordable Rented Housing	100	200	100	0	400
Shared Ownership	0	0	0	0	0
Total	250	500	250	0	1000
	Early Years	Primary	Secondary		
Need for school places expressed as forms of entry for Early Years (2-3 year olds), Primary and Secondary)	1.35	0.79	0.53		
Age groups	Ages 0-3	Age 4-10	Age 11-15	Total	
Children totals	96	167	80	342	

4.5 Recommended Approach

The shift in approach to the delivery of affordable rented housing in the borough is sufficient to cause us to rethink the strategy. If we remove schools from the system whilst this is developed further we are likely to fail to meet our statutory requirements to provide sufficient school places. To ensure we have a clear plan to address the extra 0.5 form of entry (an increase in the need for primary forms of entry from 0.22 in Table 1 to 0.79 in Table 2 shown in bold above) required for the shift in affordable rented housing and the corresponding pressures that will place on the school places it is recommended that we consider:

- i) Maintaining Sullivan Primary School; this will add 1.5FE back into the education system in south Fulham

ii) Pausing the expansion of New Kings and maintaining it at 1FE on its current site; this will reduce the provision in the area by 1FE that would have been created by continuing with the current plan

iii) Continue with the strategy to re-locate Parayhouse (a non-maintained special school currently based at New King's) to Normand Croft Primary School in north Fulham to create the potential for a future expansion of capacity at New King's should this be required, if as predicted, the demand for primary school places increases.

The three recommendations above provide a degree of confidence that there will be sufficient school places to meet the short and medium term requirements of the school communities. It also enables us to consider further the needs of the school communities in south Fulham and undertake a more comprehensive review throughout the borough reflecting the changing approach housing development following the change in administration.

To reduce the provision in the area by a net 0.5FE (with all the associated costs of school closure) when we are aware that the significant shift in regeneration and the affordable rented housing approach of the new administration will place extra demand into the system which we are unable to meet in the medium term.

It is therefore clear that the Council could fail in its statutory duty to provide a school place for every child who needs one, by proceeding with the proposals in the light of this newly proposed housing policy.

5. PROPOSAL AND OPTIONS

5.1 The Council is prohibited by law from revoking an earlier decision without publishing proposals to do so and considering any objections and comments. The Council believes that the new circumstances outlined above justifies a process of statutory consultation as to whether the Council should retain New King's and Sulivan Schools and the number of existing places available in them.

5.2 At this stage the options which the Council should consider are as follows:

i) Continue with the current proposals to discontinue Sulivan School and enlarge New King's School, as from 1 September 2014 resulting in a reduction of available school places by 0.5 FE.

Pros

- Further uncertainty for pupils, parents and staff is avoided
- The business case to invest in New King's School and avoid maintaining two separate schools has already been made.

Cons

- The Council risks being unable meet its statutory duty to provide sufficient school places in the light of further residential development in the area as envisaged in the newly proposed housing policy.

ii) Delay or modify the current proposals by delaying their implementation to 1 September 2015, and publish proposals for their revocation

Pros

- An opportunity to consider whether or not to revoke the proposals in the light of the newly proposed housing policy and its likely effect on demand for school places and seek comments on this from the community
- Provide some certainty to staff, parents and pupils at Sullivan Primary School in particular for the coming academic year, so that staffing and admissions arrangements for September 2014 can be made swiftly and so that standards can be maintained

Cons

Some financial liabilities have already been occurred in relation to planned building works (see Financial Implications)

6. CONSULTATION

6.1 Two separate processes have to be considered here.

6.2 First, the modification proposals (pushing back the date for implementation to September 2015) have been the subject of consultation with the two schools. Though the consultation period has of necessity been short, these views will be reported to Cabinet on 23 June. These views must be taken into account in deciding whether to proceed with the option of modification and then publication of revocation proposals.

6.3 If the Council decides to modify the proposals and publish revocation proposals, the revocation proposals will then be subject to a statutory period for objections and comments as follows:

Stage 1	Publication of revocation proposals	Statutory proposals published
Stage 2	Representation period	Must be 6 weeks
Stage 3	Decision	The decision maker will be the local authority and must be within 2 months of the end of the representation period or the decision defaults to the Schools Adjudicator
Stage 4	Implementation	If the revocation proposals are approved, they are treated as if the original proposals had been rejected

7. EQUALITY IMPLICATIONS

7.1. Cabinet must have due regard to the need to eliminate unlawful discrimination and advance equality of opportunity for people with protected characteristics. The equality impact assessment attached to the original Cabinet report of 10 February 2014 envisaged that the original proposals to close Sullivan and

enlarge New King's would have an impact on children with disabilities in that there would be an initial period of disruption in the implementation of the proposals during which steps would be taken to minimise the effect on pupils with disabilities, and thereafter it was envisaged that provision for such children in the enlarged New King's school would be at an enhanced level from that currently offered at either New King's or Sullivan.

- 7.2 If Cabinet are minded to modify the current proposals to discontinue Sullivan Primary School and enlarge New King's Primary School by delaying implementation of the proposals to 1 September 2015, there would be no change to the current provision at the two schools. The schools and as relevant the Council would continue to have regard to the needs of persons with protected characteristics as they currently do, and would be obliged to make any reasonable adjustments for disabled children which become necessary.
- 7.3 If Cabinet decides to publish revocation proposals, it will determine them at stage 3 of the process referred to above. Before deciding whether or not to revoke the proposals, it will be given an updated equality impact assessment showing the effect on children with disabilities of deciding to revoke the proposals (and the effect on those with other protected characteristics if they become relevant).

8. LEGAL IMPLICATIONS

8.1 The legislation imposes an obligation on the Council to implement the currently approved proposals, save in limited circumstances. The only relevant circumstances are where circumstances have so changed since the proposals were approved as to make their implementation their implementation inappropriate. In such a situation the Council would have the power to revoke the proposals.

If the Council wishes to reverse the original proposal, it would be necessary to publish proposals to do so to enable affected parties to comment on and object to the revocation proposals. The Council would then need to decide whether to put the revocation proposals into effect, bearing in mind the responses to the consultation and all other relevant information.

This would include for instance taking into account the work that may have been already done, and the money already spent, to progress the current proposals.

The Council has powers to modify the original proposals, after consultation with the Sullivan and New King's. Given that the closure of Sullivan and the enlargement of New King's must currently be implemented by September 2014, if the Council (having consulted Sullivan and New King's) decided to publish revocation proposals, it would probably be necessary for it to modify the implementation date for the proposals to September 2015. This would allow the revocation proposals to be dealt with according to the statutory timetable and allow the Council proper time to consider the objection and comments.

Implications verified/completed by: Joyce Golder, Principal Solicitor ext. 2181

9. FINANCIAL AND RESOURCES IMPLICATIONS

9.1. The financial implications of this decision relate to identifying the unavoidable costs incurred with implementing the original decision and any works that may be considered necessary at either New King's or Sullivan.

Capital

9.2 The capital implications of the original decision are set out below:

- Alterations and extension of New King's School currently costed at approximately £3.8M.
- Decant provision currently estimated at approximately £0.5m
- Alteration of alternative premises at Normand Croft School to create space for Parayhouse School costed at £100k, inclusive of irrecoverable VAT.

9.3 3BM, the employee-led mutual established by the Council that manages the Schools Capital Programme have been managing both aspects of the original decision in terms of implementing the temporary installation of classrooms on the Sullivan site and progressing the design and planning application for the works at New King's. In total, costs have been incurred of approximately £200k. A further cost associated with the abortive contract for the hire of temporary classrooms is likely and an estimate of a further £100k is considered prudent.

9.4 Allowing for the expenditure already incurred if the Council were to revoke the decision and retain the two schools without doing any works the sums available in the Schools Capital Programme would increase by £4m. Within the original scheme for New King's were landscaping, remodelling and Health and Safety works that could be de-coupled from the major scheme and progressed independently. It is proposed to continue with these works at a cost of £0.5m. Capital expenditure would also be required at Sullivan. It is proposed to establish a provision of £200k to allow the school to progress works necessary for the continuation of the school.

9.5 In light of the above, Parayhouse School will now not move to north Fulham and will stay on its current site at New King's at least until the end of its current lease term. The lease is due to expire on 1 September 2016.

Revenue

9.6 In order to maintain staffing levels during the current academic year Sullivan offered retention payments to its staff paid from school balances. Similarly New King's incurred additional costs in realigning its workforce and incurred additional costs in 2013-14 that will extend in to 2014-15. Whilst no redundancy notices have been issued to staff at Sullivan a number have received alternative offers of employment. Retention payments are likely to be required for 2014-15 and other additional costs if staff leave. Both schools are likely to be judged as 'Schools in Financial Difficulties' and an application to Schools Forum for additional funding of up to £300k will be required to cover the abnormal costs of both schools. These costs will be covered by the Dedicated Schools Grant.

9.7 School Funding for 2014-15 is determined by the October 2014 census and if the uncertainty over the futures of both schools destabilise the number of children on roll this will be reflected in the overall Dedicated Schools Grant. This will be kept under review and may lead to the schools requiring further assistance from the Dedicated Schools Grant in to 2014-15.

Implications verified/completed by: (Dave McNamara, Tri-borough Director of Finance & Resources, 020 8753 3404)

10. RISK MANAGEMENT

10.1. Risk management remains the responsibility of the Tri-borough Children's Services Department and the risks surrounding the decision to revoke the original proposal should be reflected in the Departmental risk register as they arise. The report content recommendations de-risk the decision to reverse the original proposal and allow sufficient time to appraise the position in full consideration of the new administrations proposed policy.

Implications completed by: Michael Sloniowski Bi-borough Risk Manager ext. 2587.

11. PROCUREMENT & IT STRATEGY IMPLICATIONS

11.1 Cabinet at its 7th April 2014 meeting approved expenditure on a number of school capital projects, and delegations on the award of contracts for these works to the Cabinet Member for Education. Three of the schemes approved by Cabinet in April were specifically designed to give effect to the earlier Cabinet decision made on 10th February 2014 to discontinue Sullivan school and enlarge New Kings School. Namely:

- a) the relocation of Parayhouse from New Kings school to new more accessible ground-floor accommodation at Normand Croft school;
- b) the design, supply and installation of temporary classrooms at Sullivan school to accommodate the de-canting of New Kings school to the Sullivan site whilst the expansion works at News Kings were carried out;
- c) the tendering of a contract to undertake the expansion works at New Kings.

11.2 A contract to carry out a number of improvement works at Normand Croft school, including the relocation of Parayhouse and delivery of a NHS drop-in facility, was awarded in May 2014, although it is understood that it has not yet been formally signed, by the Council. Legal advice will be given as to what potential liabilities the Council may incur as a result of the preferred bidder mobilising for this contract, as it will not now be implemented.

11.3 A contract to design, supply and install the temporary classrooms at Sullivan has been awarded, though it is understood not yet formally signed, by the Council. Legal advice will be given as to what potential liabilities the Council

may incur as a result of the preferred bidder mobilising for this contract, should it not be implemented.

- 11.4 No advertisements have been placed for the previously approved expansion works at New Kings School.

Comments provided by John Francis, Principal Procurement Consultant, H&F Procurement 020-8753-2582

LOCAL GOVERNMENT ACT 2000

LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	<i>Description of Background Papers</i>	Name/Ext of holder of file/copy	Department/ Location
1.	Cabinet decision paper on Sullivan and New King's Schools, 10 February 2014	Ian Heggs Ext. 0207 745 6458	CHS

[Note: Please list only those that are not already in the public domain, i.e. you do not need to include Government publications, previous public reports etc.] Do not list exempt documents. Background Papers must be retained for public inspection for four years after the date of the meeting.

LIST OF APPENDICES:

Appendix 1: Public statutory notice setting out the revocation proposals

Appendix 1

PUBLIC STATUTORY NOTICE - LONDON BOROUGH OF HAMMERSMITH AND FULHAM

NEW RELATED PROPOSALS TO REVOKE PREVIOUSLY PUBLISHED RELATED PROPOSALS TO DISCONTINUE SULIVAN PRIMARY SCHOOL AND ENLARGE NEW KING'S PRIMARY SCHOOL

Sulivan Primary School

Notice is given in accordance with section 15(1) of the Education and Inspections Act 2006 and regulation 26 of The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 that the London Borough of Hammersmith & Fulham, c/o Children's Services, Kensington Town Hall, Hornton Street, London, W8 7NX, proposes to revoke its earlier proposal, published by it on 21 October 2013, to discontinue Sulivan Primary School (Community), Peterborough Road, London, SW6 3BN with effect from 1st September 2014.

New King's Primary School

Notice is given in accordance with section 19(1) of the Education and Inspections Act 2006 and paragraph 41 of Schedule 5 to The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 that the London Borough of Hammersmith & Fulham, c/o Children's Services, Kensington Town Hall, Hornton Street, London, W8 7NX, proposes to revoke the earlier published proposal, published by it on 21 October 2013, to make a prescribed alteration by way of enlargement to New King's Primary School, New King's Road, London, SW6 4LY with effect from 1st September 2014.

The current proposals to revoke the original proposals published on 21 October 2013 are referred to below as "the revocation proposals".

The effect of the original proposals and the reasons for the revocation proposals

Under the original proposals, which the Council now proposes to revoke, it was proposed that with effect from September 2014 New King's Primary School would be permanently enlarged. The enlargement was to take place in two phases. For the academic year 2014/2015 New King's Primary School was to operate from the existing site at Sulivan Primary School. During the academic year 2014/2015 the Council was to undertake a programme of refurbishment and enlargement of the existing New King's Primary School. In September 2015 New King's Primary School was to return to its existing site with the permanent proposed capacity of 420 pupils.

The Council's newly proposed policy, as set out in its manifesto, to deliver additional affordable rented housing in the South Fulham area may result in a further need for school places, thus making it inappropriate to implement proposals that would reduce existing capacity through the proposals approved on 10 February 2014.

. Copies of the original proposals, and of the revocation proposals, can be obtained from Alan Wharton, Children's Services, 2nd Floor, Kensington Town Hall, Hornton Street, London, W8 7NX or from the Council's website to be found at www.lbhf.gov.uk

Objections and comments

By Tuesday 12 August 2014 any person may object or make comments on the revocation proposals by sending such objections or comment in writing to:- Alan Wharton, Children's Services, 2nd Floor, Kensington Town Hall, Hornton Street, London, W8 7NX, email awharton@westminster.gov.uk

Signed: Ian Heggs, Tri-borough Director of Schools
Publication Date: 30 June 2014