

## DETERMINATION

**Case reference: STP/000534**

**Proposal: To enlarge Whitehall Infant and Junior Schools to accommodate 120 pupils in each year group**

**Proposer: London Borough of Hillingdon**

**Objector: The governing bodies of Whitehall Infant and Junior Schools**

**Date of Decision: 3 March 2011**

### **Determination**

**Under the powers conferred on me in section 21 of the Education and Inspections Act 2006 and Regulations made thereunder, I hereby approve the proposal to increase the capacity of Whitehall Infant and Junior Schools, such that they both accommodate 120 pupils in each year group, on condition that Hillingdon Council secures planning permission for the proposed building works by 31 July 2011.**

### **The referral**

1. On 20 December 2010 the authorised officer of the London Borough of Hillingdon Council (the Council) wrote to the Office of the Schools Adjudicator (OSA) referring to the objections which the Council had received to its proposal to increase the capacity of the Whitehall Infant and Junior Schools (the Schools), community schools maintained by the Council.

### **Jurisdiction**

2. Having carried out the required consultation, the proposer formally published the proposal for the expansion of the Schools on 8 September 2010. The notice was in the form required by the Education and Inspections Act 2006 (the Act) and the Regulations made thereunder.
3. At a meeting held on 18 November 2010 the proposer considered the responses to the published notices, including some significant objections, and conditionally resolved to proceed with the proposal.
4. The objectors lodged a request that the proposal be referred to the adjudicator with the proposer within the prescribed timescales. The proposer has forwarded the referral and its comments on it to the OSA, in accordance with the provisions of the Act and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (the Regulations).

5. I am satisfied that this proposal has been properly referred to me in accordance with the Act and that, therefore, I have jurisdiction to determine this matter.

### **Procedures**

6. In considering this matter I have had regard to all relevant legislation and guidance.
7. I have considered all the papers put before me including the following:
  - the agenda and supporting papers for the meeting of the Council held on 18 November 2010;
  - prescribed information from the proposer as set out in the relevant School Organisation Regulations;
  - copies of objections received after publication of the proposals;
  - the proposer's response to the objections and comments received;
  - the views and information submitted by the governing bodies of the Schools;
  - comments made by the proposer in response to the objection;
  - additional information provided at my request relating to the demographic considerations and the Council's proposals for the site and buildings developments, and the objectors' comments on this information;
  - the most recent Ofsted reports on the Schools.
8. On 27 January 2011 I visited the Schools directly affected by the proposal to view at first hand the accommodation and locality. On the same day I held a meeting attended by representatives of the governors of the Schools and of the Council. I have considered information and the representations put to me at that meeting and subsequently.
9. I have considered the proposal taking careful account of the arguments put to me by the objectors and the proposer.

### **Background to the Proposal**

10. In response to projected growth in primary school pupil numbers the Council has decided to increase the capacity of a number of schools and to raise their admission numbers. Two of the schools included in this strategy are Whitehall Infant and Junior Schools. These Schools occupy the same site and between them serve the full primary age range.
11. The current admission number for both Schools is 90.
12. The site occupied by the schools is restricted, and the buildings clustered at one end of that site. The buildings have been extended and developed a number of times over the years and include some which are 100 years old and some of very recent construction. Vehicle and pedestrian access is somewhat restricted.

## **The Proposal**

13. The Council proposes that the capacity of the Schools should be increased such that their admission numbers can be raised to 120 in each school year. In support of this proposal the Council makes the following principal points.
- a. There is a clear and pressing need for additional places in primary schools in the Borough. The Council's officers point to two factors contributing to this. Firstly there has been a recent increase in the birth rate in the Borough, as indicated to the Council by the health authorities. Secondly, the slowdown in the local and national economy has led to changes in the patterns of movement into and out of the Borough the net effect of which is to add to pressure for school places.
  - b. The Council has looked at the patterns of demand and the availability of schools to accommodate greater numbers across the Borough, and has identified a number of schools whose capacity could be increased with appropriate extensions to their buildings. The expansion of these Schools is an important part of that strategy.
  - c. Plans have been prepared for the development of the buildings which the Council believes will ensure that the accommodation is adequate and fit for the purposes of the proposed larger schools.
  - d. These plans include the provision of a multi-use games area which will adequately compensate for the loss of playing space caused by the proposed buildings and which the Council submits will ensure that there is adequate playing space for the planned number of children. The Council also points to the availability of public playing fields away from the schools' site but within easy walking distance which would ensure that there was adequate space for organised games and sports.
  - e. The Council's Capital Programme includes provision for the building and site works required to give effect to this proposal.

## **The Objections**

14. Objections to these proposals have been submitted by the governing bodies of the Schools. The principal arguments submitted in support of these objections are as follow.
- a. The Council's analysis of the demand for primary school places is faulty.

- b. Although it is acknowledged that there is some growth in pupil numbers, this growth is principally in other parts of the Borough, and the expansion of these schools is unlikely to contribute to meeting this demand. The Council's proposal cannot, therefore, be regarded as providing sufficient *local* school places. The three closest neighbour schools are full, so that children not offered places there already have to will walk past these schools on their way to the Whitehall Schools. This proposal will exacerbate this situation. It is submitted that the Council has not considered the effect of this proposal on home school travel and increased traffic and congestion which will occur.
- c. Whilst it is acknowledged that schools of the size now proposed for these schools can be successful, this is less likely to be so in this case, principally because of the restricted nature of the site, the existing configuration of the buildings and the inadequacy of the proposed extensions. The governors highlight the restricted size of some of the teaching spaces, the impact of larger numbers of children in a constrained outdoor spaces, increasing the number of small accidents and behaviour problems; greater difficulty in forming relationships with children and follow their progress throughout school; considerable disruption to children during building work; pressure on specialist teaching areas; and the perceived inadequacy of hall space, making it impossible to hold whole school gatherings. Their concerns in this regard are exacerbated by what they regard as the poor track record of the Council in planning new school buildings, and its failure to involve heads and governors in these processes in particular.
- d. In a related point the governors point to the probable impact of this proposal on the balance of intake to the school. They contend that it will lead to an increase in the already high proportion of children entitled to free school meals, with English as an Additional Language or with special educational needs.
- e. The governors argue that the site is already congested and that access to it is problematic. The proposed enlargement would exacerbate this situation.
- f. The objectors point to a number of perceived flaws in the Council's consultation and decision-making processes. They argue that these are of such significance as to be fatal to the Council's decisions and thus the present proposals. It is submitted that the Council has failed to take into account that section of the guidance for decision makers which states that the decision maker should give the greatest weight to representations from those stakeholders likely to be most directly affected by the proposals.

- g. It is argued that the Council has not ensured the capital funding is in place for all of the expansion proposals.
- h. The governors point to a number of issues, including highways and town planning matters, where they consider that the buildings proposals are deficient and likely to lead the Planning Authority to withhold planning consent.

## **Consideration of Factors**

### *Need for Places*

- 15. The consideration of the extent to which the additional places will be required is a critical factor in this decision. The Council's duty to secure an adequate supply of school places is absolute. This does not imply that any proposal it makes to secure the required additional places is *ipso facto* to be approved, but if that need is established I must give significant weight to that, and to the consequences of not approving the developments that the Council proposes to meet it.
- 16. The governors of the schools contend that the need for the additional places at these Schools has not been established. In support of this contention they point to perceived historical inadequacies in the Council's approach to school place planning; its failure to consider the interpretation of trend data, including the impact of parental preferences at very local (i.e. school catchment area) level; and to under-subscription at local nurseries.
- 17. In officers' reports to the Council's Cabinet and in the additional information provided at my request the Council draw on demographic information and projections provided by the Office of National Statistics (ONS). These data include actual birth records and migration trends. The projections can, of course, only be confirmed in retrospect, but they are based on information which has been systematically collected and analysed by a very reputable and disinterested organisation. I consider that they provide an adequately robust basis for pupil number projections.
- 18. I note that the information is analysed at regional, sub-regional, borough and individual ward levels. The trend data and the projections derived from them by the ONS and the Council indicate a significant increase in the number of children to be accommodated at the age of 4+ in the Borough's schools in September 2012, and that this demand will be maintained for several years thereafter. This trend is apparent in the wards primarily served by the Whitehall Schools and in the neighbouring wards.
- 19. I have concluded that the Council is right to have decided that the additional places are very likely to be required in the part of the Borough served by these schools. Indeed, on the basis of the data which I have seen, the Council would be failing in its duty to act on the projected growth trends.

### *Suitable Alternatives*

20. Whilst it is my responsibility to consider the specific proposal and the objections to it on their merits, I must refer to the question of the availability of suitable alternatives. The governors object that the Council has not given serious consideration to the alternatives to the expansion of their schools, and has not engaged with them to discuss these.
21. The Council has provided a rationale for its view that the alternatives are either not available in the required timescales or simply not feasible or cost-effective. This analysis takes account of the capacity of the sites and buildings of a number of other schools in the area, and explains why the projected establishment of a new school to be built in an area where significant housing development is anticipated will not contribute to the additional capacity required in the short term.
22. In their comments on the Council's reasoning, the objectors assert that in refusing to double the size of a neighbouring primary school, to build and temporary primary school on the site of a secondary school and to make assumptions about the use of a site which is not in the Council's ownership, the Council is not thinking constructively. I note that the proposals relating to the Whitehall Schools were made in the context of a number of proposals for the expansion of other schools in the Borough. It is clear that the Council has considered a range of options, even if they have reached different conclusions from the objectors as to the relative merits of the various alternatives.
23. The arguments in support of the alternatives are not sufficiently well developed and costed for me to rely on them as a basis for rejecting this proposals.

### *Accessibility and Travel*

24. The guidance provided by the Secretary of State for Decision Makers states that proposals should not have the effect of unreasonably extending journey times or increasing transport costs, or result in too many children being prevented from travelling sustainably due to unsuitable routes.
25. The Schools are in a densely populated area which is served by a number of primary schools, some of which are voluntary aided schools with admission criteria taking faith or religious practice into account. In areas where parents have the opportunity to apply for places in a number of schools all of which are within walking distance, and some of which do not use distance as a primary oversubscription criterion, it is likely that some families will be in a position of having to pass one school on the way to another. This fact in itself cannot be the basis for rejecting this proposal.

26. I recognise that this proposal will have an effect on the number and lengths of journeys to school, but I note that the distances involved are not great when considered in the national context of the guidance for Decision Makers.

### *Site and Buildings*

27. This factor is central to this decision. The Council and the objectors properly rely on two key documents: the Education (School Premises) Regulations 1999 (the Regulations) and Building Bulletin 99 (the Bulletin). It is important to be clear that whilst the Regulations apply to all school buildings and sites, the Bulletin has been provided by the Government as a guide to those planning new or remodelled buildings for a primary (including separate infant and junior) schools. All parties agree that the site occupied by the schools is relatively restricted, to the extent that it is what the Bulletin refers to as a “confined site”. The designation “confined” does not of itself preclude expansion. The issue is whether the arrangements made for the use of the site and buildings enable them to provide at least an adequate range of facilities.

28. On the question of playing field provision, the existing playing field, the proposed multi-use games area and the off-site playing field secure adequate provision for outdoor games. I understand the objectors’ reluctance to have to rely on a remote playing field, but I note that, in this case, the field in question (which belongs to the Council) is just a few minutes’ walk from the Schools along relatively quiet residential roads, so that, with appropriate management, its use should not cause undue inconvenience, loss of time or risk.

29. I accept the Council’s assessment that the buildings, when extended as planned, will meet the requirements of the Regulations, and that the new buildings will be designed to the standards set out in the Bulletin. Nonetheless, I note that the buildings on this site have already been developed in a somewhat piecemeal way over the years and share the governors’ concerns that the extended buildings, whilst technically sufficient, will not lend themselves to the most effective internal organisation or use of space. The location of the toilet and washroom facilities in the Infant School building, particularly those for the youngest children, is not ideal. I note the Council’s undertaking in its submission to me that this matter will be satisfactorily addressed before building plans are finalised.

30. It is clear that there has been less productive dialogue between the Schools and the Council about the design of the buildings in part, I understand from the comments of representatives of the School, because of their reluctance to concede the principle of expansion. Full and constructive engagement on the part of the Council and the Schools is essential.

31. The governors have legitimate concerns that the proposed extended buildings will present a number of practical and organisational challenges

including, for example, the timing of play times for the two schools the organisation of school meals and the management of circulation, especially in the Junior School. I do not consider that these are of such magnitude as to be insuperable, or, in themselves, to constitute a basis for not approving these proposals.

32. I am concerned that the increase in pupil numbers and the associated increase in the number of adults working at the schools are likely to put additional pressure on the highway giving access to the site, on the internal vehicle access and delivery routes, and on car parking. I recognise that, insofar as this relates to the public highway, it is a matter for the planning authorities, and I understand that the car parking to be provided meets the standard applied by the planning authority. I note, however, that this part of the school site is already congested, and there is limited separation between vehicle and pedestrian access routes. The Council's plan to create a new pedestrian access at the other end of the site will help mitigate these concerns. I nonetheless feel that the Council should take steps to improve the efficiency and safety of this part of the site.

#### *Standards*

33. The objectors express concern that if Schools expand to the size now proposed, it will not be possible to maintain current high standards. The parties agree that there is nothing intrinsic to four-form entry infant and junior schools which militates against maintaining and raising standards, but the governors point to the practical impediments faced in these particular circumstances, with particular reference to the buildings.

34. I accept that, if enlarged, the Schools will need to review their internal organisation and management. This is likely to be reflected in matters such as the structure of middle leadership, the timetabling of the use of facilities such as the school hall, and the arrangements for the management of pupil behaviour and welfare. But the Schools are already relatively large and the structures and systems are capable of the required development, especially in view of the undoubted capabilities of the two head teachers.

35. I am reinforced in this view by the fact that the pupil number projections indicate that the Schools will grow to their planned size over a number of years, enabling the phased introduction of any new arrangements.

36. I have concluded that there is every prospect that the enlarged Schools will maintain and, indeed, continue to improve standards of achievement.

#### *Consultation and decision-making process*

37. I have carefully reviewed the documents which record the consultation and decision-making process followed by the Council in this matter, and am satisfied that all necessary statutory steps leading to the publication of statutory notices and the subsequent confirmation of the decision have



been taken, so that the case has been properly referred to me. I understand that the objectors are objecting to certain aspects of the local consultation and decision-making process, with particular regard to the conduct of a meeting with petitioners and to some of the content of the officers' report to Cabinet. I do not comment on the validity of these complaints as these matters are outside my jurisdiction, but I observe that, even if justified, they are not such as to invalidate the decisions made by the Council.

38. I also point out that in considering a proposal of this kind an adjudicator is required to take all aspects of the substantive proposal into account, thus enabling objectors to ensure that all matters which they consider material are considered, notwithstanding any perceived imperfections in the processes of the initial decision maker.

#### *View of Interested Parties*

39. It is clear that the Schools and their existing communities are strongly opposed to this development. The governors have articulated their objections on behalf of the wider community fully and forcibly. I have to give careful attention to these views in this determination. I must also consider the position of parents and children who are not yet part of the community and have had no voice in this process so far. It is part of the Council's responsibility to speak for these.
40. Whilst I understand the concerns of those who are proud of (and pleased with) the schools at their present size, in the circumstances, I cannot allow this to be an overriding consideration.

#### *Financial provision*

41. The Council has now provided me with written confirmation that it has made provision in its Capital Programme for the buildings works required to implement this proposal.

#### *Planning consents*

42. There is a clear difference of view between the Council and the objectors on the question of planning consents. The objectors express an apparently well informed view that some aspects of the building plans developed by the Council are likely to give rise to objections when submitted for planning approval and that there are technical reasons to believe that these objections will be successful. The Council advise that they have consulted planning officers and have been given no reason to believe that their plans are unacceptable.
43. This is clearly a matter for the Planning Authority rather than for an adjudicator. However, I am clear that the proposed expansion of the Schools critically depends on the buildings being enlarged, so that if this proposal is to be approved, it will have to be conditional on the grant of the necessary planning consents.

## **Conclusion**

44. The Council is under an absolute duty to ensure an adequate supply of school places, and clearly needs to act to ensure that the projected increase in pupil numbers is accommodated. Whilst the expansion of these Schools will present organisational challenges, both during the transition and when the proposals have been fully implemented, I judge that it is manageable in all the circumstances, not least the capability of the Schools' governors and head teachers.
45. The success of these proposals is absolutely dependent on the successful implementation of the Council's plans for the building works. This will require improved levels of consultation and co-operation between the Schools and the Council officers responsible for the detailed design and construction work, as well as a successful application for planning permission.
46. I have concluded that the expansion of these Schools should proceed as proposed by the Council, subject to a condition relating to the timely acquisition of planning permission.

## **Determination**

47. Under the powers conferred on me in section 21 of the Education and Inspections Act 2006 and Regulations made thereunder, I hereby approve the proposal to increase the capacity of Whitehall Infant and Junior Schools, such that they both accommodate 120 pupils in each year group, on condition that Hillingdon Council secures planning permission for the proposed building works by 31 July 2011.

Signed:

Schools Adjudicator: Andrew Baxter

Dated: 3 March 2011