



Report for:
ACTION

Item Number:

Contains Confidential or Exempt Information	No
Title	Update on Wood End Infant and Junior Academy determining Statutory Proposals for Wood End Infant School
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Portfolio(s)	Cllr Yvonne Johnson, Schools and Children's Services and Deputy Leader
For Consideration By	Cabinet
Date to be Considered	20 April 2021
Implementation Date if Not Called In	4 May 2021
Affected Wards	All
Keywords/Index	School amalgamation; Closure; Statutory Proposal. Wood End Infant and Wood End Junior, Academy

Purpose of Report:

The purpose of this report is to seek Cabinet approval for the closure of Wood End Infant to enable the amalgamation of Wood End Infant School and Wood End Academy (a junior school) to become an all through primary school. The closure of Wood End Infant and extension of Wood End Academy Junior would both take effect on 1 September 2021 to enable the primary school to be in operation for the start of the 2021/22 academic year.

1. Recommendations

It is recommended that Cabinet:

- i. Notes the progress made regarding the amalgamation of Wood End Infant School (WEI) and Wood End Academy Junior (WEAJ), including the Statutory Notice;
- ii. Approves the statutory proposal to close WEI to enable the amalgamation of WEI and WEAJ to become an all through primary school to take effect for the start of the 2021/22 academic year.
- iii. Delegates to the Executive Director Children, Adults and Public Health, in consultation with the Portfolio Holder and Director of Legal Services, authority to make all necessary decisions to amalgamate WEI and WEAJ.

Reason for Decisions and Options Considered

The Cabinet decision is required to enable the local authority (LA) and the schools to progress with the creation of an all through infant and junior education provision. This involves the technical closure of WEI and extension of the age range at WEAJ. As WEAJ is an academy it sought, and has received, approval from the Regional Schools Commissioner for the extension of its age range to include the WEI provision.

The Governing Body of each school wish to meet the challenges for education in the future and to enable children to continue experiencing excellent teaching and learning. The schools have been collaborating increasingly closely in recent years. Since September 2019, the schools share an Executive Head Teacher, which both Governing Bodies believe has benefited pupils and staff.

The Legal Framework within which Cabinet must consider the proposals is set out in **section 5**.

The relevant background reports were presented to Cabinet on the 13th of October 2020 for starting the consultation and authority to publish statutory proposals was given by Cabinet in the report on 19th of January 2021.

2. Key Implications

To determine the Statutory Proposal for WEI to close to enable WEI and WEAJ schools to amalgamate and become an all through primary school.

The statutory consultation period was 3 March 2021 to 31 March 2021. The Statutory Notice was completed based on the Department for Education (DfE) prescribed template and guidance. Notification of the publication of the Statutory Notice and Statutory Proposal was advertised widely in line with DfE guidance.

The Council did not receive any comments or objections during the four-week statutory representation period.

Stakeholder consultation was run by both schools supported by the LA in November and December 2020. Details of this are included in **appendix A** and were reported to Cabinet on 19th of January 2021. The consultation complied with the statutory requirements. Consultees were asked to comment upon proposals and other matters associated with an amalgamation. The overall support for the proposal was 84% agree or strongly agree from a total of 65 respondents.

The LA has been supportive of WEI and WEAJ amalgamating. Our lead primary advisor has chaired the Partnership Advisory Committee that includes governors from both schools who have been leading the work towards amalgamation.

Currently, the two GBs are working together on:

- Governance transition to a single GB utilising strength of governors across both schools
- Developing vision, values and ethos – again, building on the current schools
- Working with community about future practical areas such as uniform and logo

From 1 September 2021, if the amalgamation is approved, pupils currently at WEI would have places at the primary school – the enlarged WEAJ. The current Year 3

Published Admission Number at Wood End Academy would be removed, and pupils in Year 2 would automatically transition to Year 3 in the school.

4. Financial Implications

At the end of financial year 2019/2020 WEI had a deficit of £0.356m, an increase of £0.153m on the previous year. WEI has implemented a number of successful measures to reduce expenditure while improving standards. However, without further action it is likely that the deficit will continue to increase exposing both the school and the LA to financial risk.

WEI continues to work to reduce the deficit, with additional monitoring by the LA. The most recent budget outturn sent to the LA shows no material change in the financial position. Any remaining liability as a result of the closure of the school will be contained within earmarked general fund reserves.

School funding is largely linked to pupil numbers, reduced demand impacts school budgets, and is more acutely felt in small schools such as these.

WEAJ has a surplus reserves position, this was £430k at end of August 2020.

Two form entry all through primary schools are at a lower risk of financial difficulty and are more sustainable than separate two form entry infant and junior schools. This is due to the overall funding available to them and economies of scale, such as a single leadership structure.

WEI is a foundation school, and the land is accordingly owned by the governing body. If the amalgamation is approved, the land owned by WEI will transfer to WEAJ.

5. Legal

The Council has a statutory duty to ensure that there are sufficient school places in their area. They must also promote high educational standards, increased parental choice, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential.

The Education and Inspections Act 2006, the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 establish detailed procedures for the establishment of new schools, the closing of schools and the making of prescribed alterations to existing schools including enlargement.

The Council is currently required to comply with this statutory framework so far as maintained schools are concerned.

In November 2019, statutory guidance was published entitled: 'Opening and closing maintained schools'. Part 4 of this guidance sets out the stages for closing a maintained school.

Those stages are:

- Stage 1: Consultation (statutory)
- Stage 2: Publication
- Stage 3: Representation
- Stage 4: Decision
- Stage 5: Implementation

In November 2019 the DfE published Departmental Guidance for Academy Trusts entitled 'Making Significant Changes to an open academy and closure by mutual agreement'.

Since the abolition of School Organisation Committees in 2007 Cabinet has had the responsibility under the Constitution to agree matters relating to school organisation in the borough, which are not within the legal remit of the Schools Adjudicator or the Secretary of State.

Cabinet is required to consider the proposal and either:

- a) Reject it
- b) Approve it
- c) Approve it with such modifications as they think desirable after consultation
- d) Approve it conditional to an event occurring by a date specified

Cabinet must give reasons for each decision, irrespective of whether the proposal is rejected or approved, including the main factors/criteria for the decision. If conditional approval is granted, Cabinet must set a date by which the condition should be met. The list of possible conditions is stated in regulations, and none of those would apply in this situation.

The amalgamation of the schools requires two approvals:

- The Secretary of State (through the Regional Schools Commissioner) to approve the extension of age range at WEAJ so that it incorporates the WEI provision (i.e. moves from a school for pupils in Year 3 to Year 6, to one for pupils from Nursery to Year 6).
- The Cabinet to approve the closure of WEI.

In this situation, the Regional Schools Commissioner needed to provide their approval first, since they could provide conditional approval (with the condition being that Cabinet approve the closure of WEI). On 24th March 2021 the Secretary of State approved the change of age range of WEAJ subject to Cabinet approving the closure of WEI. So, Cabinet can approve the closure of WEI as the proposals are linked and interdependent.

If Cabinet is unable to decide proposals within two months of the end of the representation period the LA must forward proposals to the Schools Adjudicator for decision, within one week of the end of the two-month period.

A copy of all decisions must be forwarded to applicable bodies prescribed in the Guidance, including the Secretary of State, Diocesan Authorities, objectors to the proposals etc. The Governing Body of schools subject to the proposals and the local Diocesan Authorities may appeal against a decision, to the Schools Adjudicator. Appeals must be submitted within four weeks of the decision.

Proposers are under a statutory duty to implement any proposals which a local authority or the Schools Adjudicator has approved by the approved implementation date.

If proposers cannot implement approved proposals, they must publish fresh proposals to be relieved of the duty to implement. To approve revocation proposals Cabinet must be satisfied that implementation of the existing proposals would be unreasonably

difficult or that circumstances have so altered since the original proposals were approved that their implementation would be inappropriate.

Under the School Premises (England) Regulations 2012 suitable outdoor space must be provided in order to enable:

- a) Physical Education to be provided to pupils in accordance with the school curriculum; and
- b) Pupils to play outside

This legislative requirement with respect of land transfers is contained in [Part II of Schedule 22 to the School Standards and Framework Act 1998](#) (as amended by Schedule 4 of the Education Act 2006).

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (commonly known as “TUPE”) will apply in relation to any staff who are employed at WEI immediately before the closure. At present staff have contracts of employment with the school. At the point of closure, those contracts of employment will be automatically transferred to the proprietor of the academy. This means that, subject to some specific exceptions, the transferring staff will retain the same terms and conditions, and continuity of employment. Furthermore, any trade union recognition agreements applying to transferring staff will also transfer, as will any collective agreements in force at the time of the transfer.

TUPE imposes certain obligations to inform/consult appropriate employee representatives prior to the transfer. It also imposes an obligation on the interim executive board at the infant school to supply information about transferring employees to the proprietor of the academy at least 28 days before the transfer (and to update as and when required, up to the date of the transfer).

The Commercial Transfer Agreement also contains provisions in relation to staffing issues.

Pension membership falls outside the provision of TUPE. The Teachers’ Pension Scheme is not administered locally. Employees of the academy will fall within the provisions of the Local Government Pension Scheme Regulations 2013. As a result of Regulations 2, 3 and Schedule 2, Part 1, para 20, the proprietor of the academy will be a “scheme employer” in the fund for which LB Ealing is the “administering authority”.

In regard to public law and equalities considerations

When making decisions the Council must act reasonably and rationally. It must take into account all relevant information and disregard all irrelevant information and consult those affected, taking into account their views before final decisions are made. It must also comply with its legal duties, including relating to equalities.

As public bodies schools and local authorities have duties, known as the ‘public sector equalities duties’ under S 149 the Equality Act 2010.

The Equality Act 2010 places separate duties on Local Authorities as the responsible body (alongside the governing body) for schools maintained by the local authority.

6. Value for Money

Representative governors from both schools supported by LA officers have agreed to form a working party to meet regularly to review progress and ensure the process is being managed and executed according to statutory processes and agreed timescales.

7. Sustainability Impact Appraisal

The consultation showed the impact on sustainability will be neutral as outlined within the Council's procurement policies.

8. Risk Management

The Authority is working closely with the governing bodies of both schools and will develop a key risk register. See EAA appendix B. And sections 12 and 13 of this report.

9. Community Safety

There were no concerns about transport, traffic and travel gathered as part of the initial consultation. The amalgamation would not change total pupil numbers or the sites occupied by the school.

10. Links to the 3 Priorities for the Borough

The project is linked to 'Opportunities and living incomes' and 'A healthy and great place' priorities.

11. Equalities, Human Rights and Community Cohesion

An Equalities Assessment has been carried out for the proposals described in this report.

12. Staffing/Workforce and Accommodation implications

- Wood End Primary School would be an academy, and the academy trust would be the employers of the staff.
- Staff at WEI who have an employment contract that extends to or beyond the date of amalgamation would be entitled to transfer under TUPE to the academy trust on their current terms and conditions. HR due diligence is being undertaken on any measures required and pertinent info will be included in future reports.
- The TUPE process would be managed by the WEI Governing Body (as the current employer) with input from the academy trust (as the future employer). The Council's Schools' HR team provide support to WEI.
- The TUPE Regulations set out requirements for information and consultation which would be followed if the amalgamation is approved.
- All teaching and support staff unions, staff were consulted in the autumn term on the proposed amalgamation.

13. Property and Assets

WEAJ was previously a foundation school, and so the land is freehold owned by the academy trust.

WEI is a foundation school, and so the land is held by the Governing Body. If amalgamation is approved the freehold ownership would transfer to the academy trust.

Ealing Council's legal team will support both schools to ensure all statutory processes are met.

14. Any other implications

None.

15. Consultation

Consultation has taken place with the Portfolio Holder. Extensive consultations have been, and will continue to be carried out with the school staff, parents, local schools, unions and the community.

16. Timetable for Implementation

Cabinet decision on whether to approve statutory proposals	April 2021
Implementation	September 2021

17. Appendices

Appendix A: Consultation feedback report

Appendix B: Equalities Analysis Assessment (EAA)

18. Background Information

13th October 2020 Report

<https://ealing.cmis.uk.com/ealing/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/6517/Committee/3/SelectedTab/Documents/Default.aspx>

19th January 2021 Report

<https://ealing.cmis.uk.com/ealing/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/6520/Committee/3/Default.aspx>

Available at <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

<https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>

Consultation

	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Cllr. Yvonne Johnson	Portfolio Holder, Schools and Children's Services	18/3/21	18/3/21	Throughout
Judith Finlay	Executive Director Children, Adults and Public Health	18/3/21	18/3/21	Throughout
Tamara Quinn	Assistant Director, Planning, Resources and Service Development	18/3/21	18/3/21	Throughout
Justin Morley	Head of Legal Services (Social Care and Education)	26/3/21	30/3/21	Throughout
Russell Dyer	Assistant Director, Accountancy	18/3/21		
Stephen Bell	Finance Manager – Children and School Services	25/3/21		
Craig McDowell	Commercial and Procurement Partner	18/3/21	29/3/21	
Laurence Field	Programme Manager	18/3/21		

Report History

Decision type:	Urgency item?
Key decision	No
Report no.:	Report author and contact for queries:
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Appendix A: Consultation at Wood End Infant School relating to closure of the school to enable amalgamation with Wood End Academy Junior School to create an all through primary phase school

Consideration of Consultation

Members should consider the views of all those affected by the proposal or who have an interest in them including pupils, families of pupils, staff, other schools and colleges etc. Members should not simply take account of the numbers of people expressing a particular view when considering representations made on proposals. Instead, Members should give the greatest weight to representations from those stakeholders likely to be most directly affected by the proposal.

Initial Consultation

The proposal consulted on is the closure of Wood End Infant School to enable amalgamation with Wood End Academy Junior School to create an all through primary phase school. This would involve transferring pupils, staff, land, buildings and equipment to Wood End Primary.

Almost all pupils progress from Wood End Infant School to Wood End Academy, and few join Wood End Academy who were not previously at Wood End Infant School. The schools have been collaborating increasingly closely in recent years, including sharing an Executive Headteacher since September 2019, which both Governing Bodies believe has benefited pupils.

Amalgamating the schools to form a primary school therefore reflects the pupil journey and formalises the collaboration. In addition, Ealing Council and the two Governing Bodies believe that a single primary school is educationally and financially more sustainable than separate infant and junior schools.

Both schools were judged to be 'Good' when last inspected by Ofsted.

The whole consultation period was from **Monday 2nd November 2020 to Friday 11th December 2020**

Who was consulted?

The proposal was sent to the following stakeholders:

- Parents of pupils
- Staff and Governors
- An EGFL gatekeeping article was sent to all Ealing Schools about the proposals
- Ward Councillors
- Local MP
- Adjacent Local Authorities

The initial proposal was available to download on the school website during the consultation period.

How were stakeholders consulted?

- **Consultation Leaflet and Feedback Forms** – The initial proposal detailed and circulated with a feedback form attached. Response forms were received.

- **Consultation Events** – Consultation events took place on 17th and 18th November. Overall, 20 parents attended the online meetings.
- A separate event was held for staff at on 2nd (WEI) and 3rd November WEA
- This was well attended by staff.
- **Emails were sent directly to:**
 - The Ward Councillors
 - Local MP
 - Adjacent Local Authorities
- **An EGFL gatekeeping article was sent to all Ealing Schools about the proposals**

Feedback from Stakeholders

The overall support for the proposal was 84% agree or strongly agree.

In addition to attendance at the meetings, there were 65 written responses:

- 8 from staff (6 from WEI and 2 from WEA)
- 52 from parents (29 from WEI and 31 from WEA and 9 who have children at both schools)
- 1 local resident who was not also a parent

Representatives of LB Brent and LB Hillingdon responded saying the proposals would not have any impact in their Boroughs.

Note –the sum of the respondent categories is more than the number of responses because respondents could identify as more than one category; for example, a respondent could identify as a member of staff, a parent, and a local resident.

The four most commonly identified advantages or benefits were:

- Practical benefits, including not needing to reapply for Year 3, single uniform, single communications, single pre/after school club arrangements etc (mentioned 21 –25 times)
- Continuity of educational provision (curriculum, SEND) from Nursery to Year 6 (mentioned 16-20 times)
- A financially more sustainable school (mentioned 5 or fewer times)
- The opportunity for children to engage with children across Key Stages, including siblings (mentioned 5 or fewer times).

The consultation responses raised relatively few concerns, each of which was raised five or fewer times. The concerns raised were mainly within three themes. The responses from the Governing Bodies is in italics:

- Whether the process being followed to achieve amalgamation was the most appropriate and / or whether it was or appeared to be a WEA ‘takeover’
 - This is not how either Governing Body or the Executive Headteacher perceives it. The amalgamation process is to establish a primary school that builds upon the best of each current school –for example the new Governing Body would be formed from individuals in both current Governing Bodies.*
- Staffing implications, including terms and conditions, the potential for staff restructure, and whether the transition would have a negative impact upon well-being
 - Teachers at both schools are employed in accordance with national terms and conditions and this would continue. There is difference in the*

current terms and conditions for support staff and the two Governing Bodies are considering the most appropriate way forward to ensure consistency within the school and no detriment to staff. Detailed proposals for how the primary school would operate would need to be developed and consulted upon so at the moment it is not known whether there would need to be a restructure. Irrespective of the amalgamation, the number of pupils in KS2 in 2021/22 would be lower than in 2020/21 as the outgoing Year 6 cohort is larger than the incoming Y3 cohort and WEA is reducing staffing accordingly to reflect the smaller pupil roll. We have support from an external project manager and from Ealing Council to reduce the impact upon our senior leaders, including the primary school improvement lead advisor who has led amalgamations while he was a Headteacher.

- Whether a primary school has negative aspects –such as wider age range of children mixing together, whether a larger school may be concerning for some pupils, whether one Governing Body can maintain sufficient oversight of what is currently overseen by two Governing Bodies, and whether transition would be a distraction for staff this year.

Within curriculum time, older children working with younger children can have very positive impacts for both groups of pupils when it is effectively managed. For play / lunch times these would be staggered in time and / or different year groups or Key Stages would use different parts of the site. Concern about whether a bigger school would be good for all pupils. The year groups would remain the same size (up to 60 pupils in each new Reception year group divided into 2 classes). All pupils would continue to be extremely well known by staff. Having a single school enables continuity and consistency of support for pupils throughout the whole primary age range, and reduces the anxiety and risks that potentially exist now around transition from Year 2 to Year 3 as pupils move school.

Most of the questions raised in consultation responses were regarding implementation (such as child drop off arrangements, how governors would be selected, day to day impact).

The most substantive issues raised was whether the primary school would consider having an Additionally Resourced Provision (ARP) for pupils with an identified special educational need.

There are not any current plans for an ARP. Any proposal for an ARP would require further statutory consultation in the future.