

# MUNICIPAL YEAR 2013/2014 REPORT NO. 98A

**MEETING TITLE AND DATE:**

Cabinet 16th October 2013  
Council 27<sup>th</sup> November  
2013

**REPORT OF:**

Director of Schools & Children's  
Services

<b>Agenda – Part: 1</b>	<b>Item: 10</b>
<b>Subject: Future Provision of Secondary Tuition Services (PRU)</b>	
<b>Wards: All Wards</b>	
<b>Key Decision No: 3799</b>	
<b>Cabinet Members consulted: Councillors Orhan and Stafford</b>	

Contact officer and telephone number:

Gary Barnes 0208 379 4250

E mail: gary.barnes@enfield.gov.uk

## 1. EXECUTIVE SUMMARY

This report details proposals for the re-provision of the Secondary Tuition Service (STS) also known as the Pupil Referral Unit (PRU) from its current multi-site accommodation on to one site on 230 Bullsmoor Lane.

The report also details the procurement methodology for delivering the new building required to house the PRU and seeks approval to commence the Planning and procurement process.

The report also details the outline capital requirements for the build and the options for funding.

## 2. RECOMMENDATIONS

2.1. Council is asked to to approve the additional capital requirement of £3.099 being added to the Council's capital programme, as recommended by Cabinet.

2.2. Council is asked to note that Cabinet agreed the following, in referring the report to Council:

(a) agree the additional capital funding for the proposed works and associated technical services totalling £3.099m as detailed in paragraph 7.1 (Financial Implications) of this report and to include the revised total project value of £7.5m over three years in the Council's capital programme.

(b) the Director of Schools & Children's Services being authorised to approve expenditure for orders by operational decision for individual orders up to a maximum of £250,000 for works and technical services.

- (c) the Director of Schools & Children's Services being authorised to manage the Project budget in a flexible way within the overall funding available to take account of variations between estimates and tender costs
- (d) the Director of Schools & Children's Services being authorised to approve an appropriate procurement strategy by operational decision for works and technical services, subject to the financial restrictions in b & c above
- (e) the Director of Schools & Children's Services being authorised to undertake the work for and approve submission of a Planning Application.
- (f) approve the disposal of the two assets detailed in paragraph 3.3 of the Part 2 report on this agenda, subject to the approval of the Director Finance, Resources and Customer Services and the Cabinet Member of Finance and Property.

### **3. BACKGROUND**

- 3.1 Authority was sought and granted (Key Decision number U183/KD3692) with the date that the original Portfolio decision was taken being 19 March 13 to acquire the freehold interest of Orchardside Nursery, 230 Bullsmoor Lane (The Property) at either auction or by private treaty if not sold at auction.
- 3.2 The Council was unsuccessful in securing the purchase of the property at that time but following the auction the owner approached the Council to sell the property via private treaty to include a leaseback arrangement until 1 September 2014. Following the approach the Authority sought to supplement the original Key decision with KD number U186/KD3754 with the date that the second Portfolio decision was taken being 2 July 13, thereby allowing the Council to purchase the Property and enter into a short term leaseback agreement until the beginning of September 2014. At the time of drawing up this report the acquisition is still in progress but by the date of this Cabinet meeting it is anticipated that the purchase will have been completed and the property added to the education portfolio. A verbal update will be given at Cabinet.
- 3.3 The PRU students have been excluded and cannot be educated at main stream school. The majority of pupils attend full-time although a part-time induction programme is used to introduce pupils to the centre; a small number also attend college part-time.
- 3.4 The PRU is currently accommodated on three sites; in HORSAs buildings at Eldon Road, in a converted church hall (Newbury site) at Bury St., plus

temporary use of Swan Annexe. Suitability assessments have identified the existing accommodation as not being fit for purpose and there are major concerns in relation to the condition of the buildings. There is insufficient space, existing accommodation is deficient in specialist and general teaching areas and there are inadequate areas for administration, support and storage. External areas are extremely restricted and there are no appropriate areas for recreation and PE.

- 3.5 Replacing the poor accommodation the PRU currently uses has been a Council priority for some time and was initially to be addressed under the Building Schools for the Future Programme (BSF). When the BSF programme was scrapped in July 2010, Schools and Children's Services undertook a desktop feasibility study into the purchase and use of the St Mary's Centre Site, Lawrence Road, Edmonton. This was found not to be suitable as the vision was originally to provide the service using a "hub and spoke" model, with the St Mary's Centre as the location for the hub using the Borough's Youth Centres to provide the spokes. It soon became apparent that this would not be feasible and so the brief changed to look at providing all the accommodation on St Marys', however the site was deemed too small.
- 3.6 The PRU was inspected by OFSTED in February 2013 and achieved outstanding. However, the inspection team highlighted that there was a need to "Address the accommodation shortcomings so that students can be offered a wider range of practically-based courses"
- 3.7 Initial discussions have taken place with the head teacher and Governing Body of Capel Manor Primary school who have been very positive about locating the PRU adjacent to the school.
- 3.8 The location enables the effective use of any new facilities by the primary school next door, for example a potential MUGA. In addition it is envisaged that educational opportunities could be offered by Capel Manor College to students attending the school.
- 3.9 Over a nine year period officers from within Education and Children's Services have been looking to relocate the secondary tuition service from its current locations, as part of this process 13 sites including the preferred site identified in this report have been considered. The other sites for various reasons have been excluded. (Options Paper for the re-provision of the secondary tuition service).

#### **4. PROPOSAL**

- 4.1. To construct a purpose built facility for 150 Secondary pupils (50 managed remotely) that will address the accommodation shortcomings

so that students can be offered a wider range of practically-based courses.

- 4.2 Subject to obtaining full Planning consent, works will be procured to commence on site as soon as possible after the end of the short term leaseback agreement in September 2014, which should result in the facility opening in September 2015.

## **5. ALTERNATIVE OPTIONS CONSIDERED**

The alternative option is to continue to provide services from the current locations, to use the St Mary's site which was originally purchased and latterly identified as being too small or to find an alternative site.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1. The recommendations have been made to enable works and technical services to be procured as soon as possible to address the accommodation shortcomings so that students can be offered a wider range of practically-based courses.

## **7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **7.1 Financial Implications**

- 7.1.1. Within the approved S&CS capital programme there is a provision of £2.770m for this scheme, of which £1.0m will be required to cover the recent purchase of the site. Based on preliminary estimates using benchmark data and assuming modular construction, the capital expenditure is expected to be £6.2m including a £300k contingency sum, giving a total of £7.2m. The existing £2.770m will be supplemented by the approved allocation of £1.631m from the Targeted Basic Need grant. This means that only £4.401m is available to fund the proposed expenditure of £7.2m. The funding gap of £2.799m has been submitted as an unsupported borrowing capital pressure bid for consideration during the 2014/15 budget setting process. However it is anticipated that £876k can be achieved through the sale of the existing sites which will reduce the unsupported borrowing requirement down to £1.923m. The annual revenue cost of this additional unsupported borrowing will be £144k. By 2015/16 it may be possible to maximise any new or unallocated grant funding available then to reduce the need for any unsupported borrowing.

- 7.1.2. The proposed expenditure and funding profile is as follows :

	2013/14	2014/15	2015/16	Total
	£m	£m	£m	£m
Purchase of Site	1.000			1.000
Construction (Works/Technical Services)	0.300	2.700	3.200	6.200
Project Contingency			0.300	0.300
<b>Total Expenditure</b>	<b>1.300</b>	<b>2.700</b>	<b>3.500</b>	<b>7.500</b>
<b>Funded by:</b>				
Schools Capital Grants	1.292			1.292
Approved Unsupported Borrowing		1.077	0.401	1.478
Targeted Basic Need	0.008	1.623		1.631
Use of Capital Receipts			0.876	0.876
Additional Unsupported Borrowing Bid			2.223	2.223
<b>Total Funding Required</b>	<b>1.300</b>	<b>2.700</b>	<b>3.500</b>	<b>7.500</b>

## 7.2 VAT Implications

The Council's responsibility for providing statutory full time education extends to excluded pupils who, for various reasons, would not receive suitable education without such provision by the Local Authority. PRUs are therefore deemed to be similar to LA maintained schools such that the supply of education is non-business for VAT purposes. Therefore, VAT incurred towards the supply of such education can be recovered under provisions of S33 of VAT Act 1994, subject to the normal rules for VAT recovery- i.e. the council must contract for/procure the supply, receive the supply, pay with corporate funds, and receive a VAT invoice in its name. Qualifying VAT include VAT incurred in making the site suitable for the supply of education (e.g. construction, furniture and fittings, educational tools and equipment, etc.).

The Council will be granting a peppercorn lease to the seller. A true peppercorn (with no other associated benefits/payments, monetary or otherwise) is non-business for VAT and incurred VAT will be recoverable as outlined above. If other consideration is received, the

lease becomes exempt and could jeopardise the council's ability to recover its exempt VAT, approximately £2.8m/year.

It is not expected that Exempt revenue income (e.g. from leases or lettings) will be generated by the PRU, therefore the impact on the partial exemption position should be minimal. However, it is recommended that a VAT implication analysis is carried out before any changes are made to the use of the site.

### **7.3 Legal Implications**

- 7.3.1 Section 14 of the Education Act 1996 requires that an authority ensures that sufficient school places are available within its area for children of compulsory school age. Case law upon this statutory duty confirms that compliance with the duty requires an education authority to actively plan to remedy any shortfall. Section 111 of the Local Government Act 1972 ("the LGA"), includes the power to do anything ancillary to, incidental to or conducive to the discharge of any of its statutory functions.
- 7.3.2 With regard to the recommendation at paragraph (g) concerning the proposed disposal of the Council's two assets, s123 of the LGA authorises the local authority to dispose of its property in any way it thinks fit, provided it's at the best consideration that can be obtained, otherwise the consent of the Secretary of State is required.
- 7.3.3 An additional consideration and powers apply if the assets proposed to be disposed of are used for educational purposes, in which case the consent of the Secretary of State is required. In considering whether the consent should be given, the Secretary of State will take into account the suitability of the premises for use by any other educational establishment, eg an academy of a free school.
- 7.3.4 The disposal of the assets must also be in accordance with the Council's Property Procedure Rules.
- 7.3.5 The procurement of any goods/works/services will need to be in accordance with the Council's Constitution, in particular Contract Procedure Rules.
- 7.3.6 All contracts will need to be in a form approved by the Assistant Director (Legal Services).
- 7.3.7 Subject to the comments above, the recommendations within this report are in accordance with these powers.

### **7.4 Property Implications**

- 7.4.1 With regards to the leaseback arrangement with the vendor, it will include a 12 month lease, contracted out of the Landlord & Tenant Act 1954 (Part II) at a peppercorn rent. The lease would be on a Full Repairing and Insuring basis giving LBE vacant possession at the end of the term.
- 7.4.2 This solution offers vacant possession at the end of 12 months with no risk of the occupant of the residential or the commercial element becoming a secure tenant of the Council.
- 7.4.3 The Council would be liable for the decommissioning costs (capping service, asbestos removal from pipes and lagging, decontaminating the site and removing the glass from the greenhouses), site security and taxation on the rest of the site once the lease expires.
- 7.4.4 As soon as vacant possession is yielded, subject to planning approval, the Council will be in a position to employ contractors to enter onto the site to take possession, demolish and build out the scheme immediately to avoid the majority of the holding costs described in 7.4.3. However, any delay will result in additional holding costs.
- 7.4.5 There are various risks, which if they materialise, may delay the site's development. These risks include: planning risk given the site's designation; obtaining SoS and Sports England Consent. The sale and leaseback arrangement has been contractually drafted to ensure that the vacant possession will be achieved by September 2014.
- 7.4.6 Prior to gaining access to the property, site investigations and development due diligence will be required such as topographical surveys, sub soil investigations to ascertain whether the site has a deleterious materials which would require careful removal and disposal.
- 7.4.7 A demolition notice will have to be sent to Property Services prior to demolition to comply with Property Procedure Rules and Capital valuation regulations.
- 7.4.8 With regards to the construction method, modular buildings provide enhanced environmental performance measures which in turn lower energy costs. Other advantages of utilising the modular route include lower maintenance costs, speedier assembly, enhanced longevity of the buildings and greater sustainability.
- 7.4.9 Once built, the property will be need to be added to the annual Capital Valuations and once acquired, the site and any completed buildings will need to be added to the Council's insurance schedule to ensure that the property has adequate cover.
- 7.4.10 An inventory list of any material procured and produced will need to be kept. In the event of failure to complete, appropriate arrangements will

need to be made for these supplies to be retained and secured for the Council until a decision is made on how best to dispose of them.

- 7.4.11 Property Services will need to be aware and sent the new data being generated for the new build in either CAD or Pdf format. These include floor plans with room data for the purposes of the Asset Management System, Atrium.
- 7.4.12 Operating manuals for the new building and internal system manuals will need to be handed over on completion by the contractor.
- 7.4.13 Once planning permission is gained Building Regulations will need to be adhered to as part of the enabling and construction works.
- 7.4.14 Overall this transaction will have to adhere and comply with internal Property Procedure Rules and Corporate Procurement Rules.
- 7.4.15 The location of a PRU at this site provides several opportunities that enhances and optimises the use of Council assets. In particular, it permits the sharing of existing open space and recreational space between different organisations which contributes towards the financial sustainability of public assets. A management plan for the shared use of Bulls Cross playing fields and outdoor playspace with Capel Manor Primary School will need to be agreed.
- 7.4.16 The disposal of assets will be subject to the Council's Property Procurement Rules and detailed third party valuations.
- 7.4.17 The relocation of the secondary tuition service will enable the release of Swan Annex as agreed to form part of the Ponders End High Street regeneration proposals.

## **7.5 Procurement**

- 7.5.1 As the estimated value of the Works exceeds the EU threshold for of £4.348m it is subject either to a competitive tender via OJEU (Official Journal of the European Union) or the use of a compliant framework agreement.
- 7.5.2 Procurement options are under review for the proposed Works and Technical Services. A compliant framework agreement that best meets the Council requirements will be identified from those currently available such as but not limited to: Education Funding Agency (EFA) – PfS Contractor's Framework / Improvement and Efficiency South East (iESE) - South-East & London Construction Framework for Major Projects / London Housing Consortium (LHC) - Schools & Community Buildings (SCB1) / Barking & Dagenham Council - Education & Other Services Framework £1.5 million and above / Scape - National

Contractor Framework (£2m and over) / Government Procurement Service (GPS) Cabinet Office - RM875 Modular Building Systems.

7.5.3 In accordance with the Council's Constitution the procurement strategy will need to be approved by the Strategic Procurement Board.

## **8. KEY RISKS**

The proposed site although a brown field site is within the green belt and therefore there will be a need to design the building sympathetically taking account of the proposed location

## **9. IMPACT ON COUNCIL PRIORITIES**

### **9.1 Fairness for All**

This proposal will provide additional special provision school places which serves the entire Borough

### **9.2 Growth and Sustainability**

This proposal will provide additional school places in an area of the community of high demand. The places will increase the numbers of pupils and parents being assisted

### **9.3 Strong Communities**

The school places will be offered to the young people of Enfield who need them from all wards.

The accommodation will allow additional facilities to be offered to the pupil and parents of the Capel Manor Primary School.

The accommodation will incorporate, where possible the ability to be used outside the normal school day by the community.

## **10. EQUALITIES IMPACT IMPLICATIONS**

An EQI assessment is currently underway, and this will be finalised following the consultation on the scheme which will commence subsequent to the approval of this report.

## **11. PERFORMANCE MANAGEMENT IMPLICATIONS**

As a result of this project, there will be the provision of the projected and current requirements for school places within the Pupil Referral Unit, for young people across the Borough

The PRU was inspected by OFSTED in February 2013 and achieved outstanding. However, the inspection team highlighted that there was a need to “Address the accommodation shortcomings so that students can be offered a wider range of practically-based courses”. This scheme looks to address those concerns

**12. HEALTH AND SAFETY IMPLICATIONS**

Requisite notices under the Building Acts and Health and Safety information will be issued to the contractor for any works.

**13. HR IMPLICATIONS**

None.

**14. PUBLIC HEALTH IMPLICATIONS**

None.

**Background Papers**

None.