

MUNICIPAL YEAR 2015/2016 REPORT NO. **KD 4108**

Delegated Authority Report

REPORT OF: Ray James

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Agenda – Part:1	Item: N/A
Subject: To increase rates paid for Private Leased Annexe accommodation used as part of the Temporary Accommodation portfolio Wards: All	
Cabinet Members consulted: Cllr Ahmet Oykenner Cllr Stafford	

1. EXECUTIVE SUMMARY

1. Enfield Council uses leased accommodation to provide housing for those owed a statutory housing duty, this accommodation is procured from a range of suppliers who own or manage accommodation in the private rental market.
2. The private rental and nightly paid market both in Enfield and across the South East is experiencing increased competition for accommodation which is resulting in an increase in price. Both Enfield Council and other London boroughs are attempting to source properties for temporary accommodation against a background of increased demand across London, and increased volatility. This was originally as a direct result of changes in welfare benefits which have been felt most keenly by inner London boroughs, which are unable to continue to provide in-borough solutions for those who are homeless, mainly because of cost.
3. The Council has a mixed portfolio of temporary accommodation which includes a Private Leased Annexe (PLA) scheme and a Private Sector Leased (PSL) scheme, more expensive nightly paid accommodation (NPA) is also used, and is the main form of accommodation used at present due to increased demand. PSL & PLA accommodation has proved to be the best performing element of the portfolio providing good quality, stable and cost effective accommodation for those owed a statutory homelessness duty.
4. However, having had relative stability in PLA accommodation for a number of years, the Council's leasing scheme is currently losing properties from the portfolio. Feedback from suppliers indicates that this is because landlords can obtain better financial returns from other boroughs and, indeed, in the main through letting properties via nightly paid schemes in the current market.
5. The rent levels charged to tenants is set using a Communities and Local Government formula (Housing Benefit subsidy rate), and has been set by full Council in February 2014, for the financial year 2014/2015. Passing on any further increased costs of the portfolio above the housing benefit subsidy rate to tenants is unlikely to be enforceable/collectable because such rates are likely to be deemed 'unaffordable' under the homelessness legislation.

March 2015

6. To maintain this leased accommodation portfolio, this report recommends an increase in funding to ensure that the Council maintains its position in the market, and maintain the optimum efficiency of the portfolio in current market conditions.
7. The cost of this rent increase is £853,440 within 2015/16. This cost has been dealt with through the medium term financial plan as a budget pressure. This pressure is being funded as a spend to save initiative and is part of an action plan laid out to attract more PLA properties and in effect reduce the number of expensive nightly paid accommodation currently being used.
8. Agents are increasingly withdrawing properties from the PLA scheme, citing low rates as the reason. Furthermore, agents are increasingly requesting that we transfer PLA properties onto the NPA scheme in order to retain properties with the landlord. Feedback from agents, and current trends, suggest that we will lose all our PLA stock by end of March 16 if we do not increase our rates to the proposed competitive rates. These tenants will need to be rehoused into either emergency NPA accommodation, or transferred onto the NPA scheme at increased rates.
9. Our modelling suggests that the increased cost of housing these households in NPA accommodation will be £1,968,000 (full year cost) over 15/16. This full year cost will be ongoing into subsequent years, and will increase if NPA costs continue to increase. The half year cost for 15/16 is £984,000. This represents a "spend to save" projected saving of £130,560 for 15/16 and an ongoing annual saving of £1,114,560 compared to the rent increase cost.

2. RECOMMENDATIONS

- 2.1 That the caps on rents paid to providers of accommodation on the private Leased Annexe scheme are increased by 8.49% to maintain the supply of accommodation for use as temporary accommodation or accommodation to prevent homelessness where this can be achieved.
- 2.2 Implement the suggested price increase (see part 3.10 - Table 2) to all PLA providers across the entire portfolio with effect from 1st June 2015 in order to prevent the loss of properties. This is an invest-to-save measure.

3. BACKGROUND

- 3.1 Enfield Council's temporary accommodation portfolio is a mixed portfolio of provision with accommodation procured and managed in a number of ways,
- Private Leased Annexes (PLAs)
 - Nightly paid accommodation (NPAs)
 - Private sector leased annexes (PSLs)
 - Housing Association as Landlord (HALs)
 - Nightly Paid Accommodation (NPAs)
- 3.2 Each of these types of accommodation have different management arrangements with responsibility for repairs, rent collection and property management sitting either with the accommodation provider or the Council, the risks and benefits and details of these arrangements are set out at Appendix A.
- 3.3 This mixed provision has performed well for the Council, maintaining a flexible supply of accommodation as numbers in temporary accommodation have reduced and spreading risk as factors affecting the unit cost of procurement of the different types of accommodation and other factors such as housing benefit subsidy rules have changed over time.
- 3.4 Each type of provision has variations with regard to procurement costs and expenditure, for example the Housing Association schemes are cost neutral, with NPAs operating at a deficit to the Council and PSLs and PLAs creating a small surplus, which is used to subsidise NPAs and other costs. A description of each of the accommodation types and current risks and financial concerns are set out at *Appendix B*.
- 3.5 However, financial pressures are being felt across the whole portfolio as demand for accommodation across London increases and drives up prices for rental units.
- 3.6 The nightly paid market in Enfield is extremely buoyant as both Enfield and other London boroughs,
- Source emergency accommodation for increasing numbers of homeless households.
 - Landlords are increasingly evicting reasonable private rented tenants in order to place on nightly paid for additional financial gain.
- 3.7 The private rental market in Enfield is also buoyant as both Enfield and other London boroughs,
- source rented accommodation to prevent homelessness by arranging for a private sector tenancy or using the private rented sector to discharge its homeless function.
 - the private sector rental market adjusts for the increased numbers of 'ordinary private renters' for households not able to purchase property due to mortgage difficulties eg requirement for high deposit levels and a shortage of entry level homes as properties are purchased for 'buy to let' arrangements.
 - the move of households not able to afford inner London rents due to Housing Benefit restrictions.
- 3.8 The table below shows the numbers acquired and lost from the PLA scheme over the past four years. In total, a net loss of 32 units has occurred. As you can see from 2014/15 figures there has been a large upward trend in hand backs due to a more profitable nightly paid market. This will only increase should a price increase not be agreed.

Table 1

Financial Year	Acquired	Handed Back
2011/12	4	45
2012/13	100	98
2013/14	143	95
2014/15 (11 months)	20	61
Totals	267	299

- 3.9 Meetings with the Council's PLA providers and an intelligence gathering exercise with other London boroughs undertaken by Community Housing Service staff, has indicated that current rates were difficult to maintain as higher rent levels could be achieved elsewhere in the market. The findings of these exercises are set out in *Appendix C*.
- 3.10 Table 2, sets out the monthly levels requested showing current PLA procurement rates, the proposed new procurement rates, the Local Housing Allowance levels for FY14/15, and the Local Housing allowance levels for FY15/16. The LHA rates for the next financial year have increased 4% therefore putting more pressure on the PLA portfolio rates

Table 2

Property Type	Current PLA rate (£)	Proposed PLA rate (£)	Current LHA (£)	FY15/16 LHA (£)
Studio	720.00	740.00	832.00	865.28
1 Bed Flat	815.00	860.00	832.00	865.28
2 Bed Flat	1020.00	1150.00	1063.92	1106.47
2 Bed House	1020.00	1150.00	1063.92	1106.47
3 Bed House	1280.00	1375.00	1313.00	1365.52
4 Bed House	1500.00	1600.00	1667.47	1684.15

4. ALTERNATIVE OPTIONS CONSIDERED

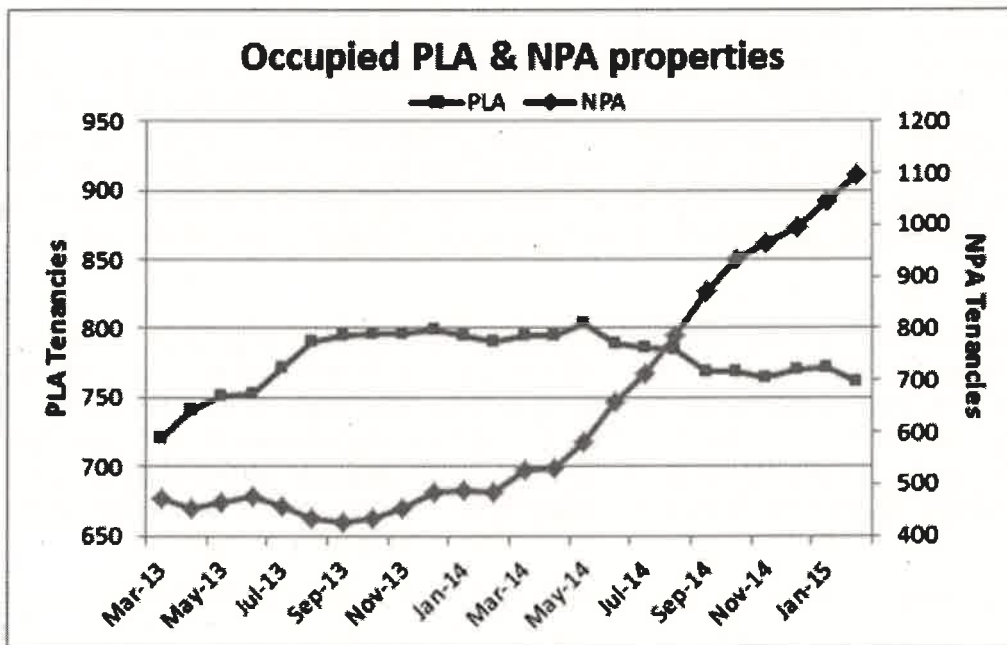
- 4.1 The loss of PSL and PLA accommodation from the portfolio and the increase in households housed in TA has seen an increase in the use of expensive NPA accommodation. Currently over 1100 units are being used, which is causing a significant cost pressure on the portfolio.
- 4.2 Higher levels of rents would obviously improve the rate of properties being offered for the schemes, but the evidence suggests that the recommended level will maintain the balance between achieving sufficient properties for the Council's requirements at this time, while achieving best value for the Council.
- 4.3. Maintaining the rent levels paid to providers and landlords or increasing them at a level below those recommended would result in more properties being lost from the schemes.

5. REASONS FOR RECOMMENDATIONS

- 5.1 Rents for the PLA scheme were raised by 5.4% in July 2013 for the 759 units leased. This increase has not stopped the continuing requests for properties to be returned to agents and from the intelligence gathered, this is because agents have the option to

gain greater returns from other organisations – particularly other London boroughs. Providers have indicated that an increased rate of return will help to stabilise the portfolio and therefore reduce the numbers of properties being demanded back by individual landlords, as the payments being offered by Enfield would match those offered by other organisations.

- 5.2 The PLA scheme is an efficient part of the portfolio, in terms of quality and stability. Historically, each PLA provides the local authority with a small monetary surplus, because the rent that we collect on them exceeds the costs of managing and leasing them. This surplus has been used to subsidise NPAs and other costs to the service. NPAs on the other hand operate at a significant deficit to the Council. The loss of affordable PLA accommodation and the increase in the use of expensive NPAs has led to a significant budget pressure for the service. Please see graph below which shows the extent of the gradual loss of PLA's and significant increase in NPA's:



- 5.3 The service has established an action plan to minimise this cost pressure by addressing the loss of PLA accommodation and by reducing the cost of expensive NPAs. The proposed recommendations are an important part of this action plan to help stabilise the portfolio and prevent even greater cost pressures.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

6.1 Financial Implications

This rental increase of 8.49% (£853k) has been dealt with as a budget pressure within the medium term financial plan for 2015/16 onwards.

This increase in rent is needed to retain the existing number of PLA properties, as it is likely, that if there is no increase to the landlords' rents, the number of properties within these schemes will drop and the council will need to use the more expensive nightly paid accommodation to house the homeless.

This pressure is being funded as a spend to save initiative and is part of an action plan laid out to attract more PLA properties and in effect reduce the number of expensive nightly paid accommodation currently being used.

Feedback from landlords, and current trends, suggest that we will lose all our PLA stock by the end of March 16 if we do not increase our rates to the proposed competitive rates. Our modelling suggests that the increased cost of housing these households in NPA accommodation will be £1.968m (full year cost based on 14/15 prices) over 15/16. This full year cost will be ongoing into subsequent years, and will increase if NPA costs continue to increase. The half year cost for 15/16 is £984k. This represents a "spend to save" projected saving of £131k for 15/16 and an ongoing annual saving of £1.15m compared to the rent increase cost.

6.2 Legal Implications

The recommendations fit into the Council's duty under the Homelessness Act 2002 to review homelessness in its area periodically. Under Part VII of the Housing Act 1996, the council has duties and powers to provide accommodation to homeless persons or those threatened with homelessness in certain circumstances. The council may acquire residential accommodation for Part VII purposes by entering into leases as permitted by Section 120 of the Local Government Act 1972 which enables the council to acquire any land by agreement for the purposes of meeting any of its statutory functions.

The Housing Act 1996 allows local authorities to discharge their duty to an accepted homeless household by securing accommodation in the private rented sector where appropriate. The local authority will be unable to take advantage of the PSL scheme and thereby carry out its statutory function of reducing homelessness if it does not increase the rent to private landlords. This increase will assist in reducing the overall cost of temporary accommodation when comparing the use of PSL accommodation with NPAs.

7. KEY RISKS

- 7.1 If the rents payable to landlords are not increased, there will be a further increase in the numbers of properties used on a nightly rate basis which will place considerable financial pressure on service budgets creating an over spend. This increase is likely to manifest in the conversion of PLA units to a nightly rate.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

Black and minority ethnic communities are over represented in terms of those who are homeless, owed a statutory housing duty and living in temporary accommodation. Procurement of good quality accommodation will impact positively on these customers. The development of a range of housing options including a focus on maintaining tenancies wherever possible will also impact positively on these residents.

8.2 Growth and Sustainability

Understanding the local housing markets and the demand and supply issues for housing are of significant strategic importance to the Council in terms of both housing growth, sustainability in terms of energy efficiency and sustainable communities.

8.3 Strong Communities

This proposal supports the attainment of strong communities by promoting and enabling tenancy sustainment across tenures, preventing homelessness, removing the barriers to accessing the private rental market and offering choice of tenure in accommodation. These threads enable strong communities to develop.

9. PERFORMANCE MANAGEMENT IMPLICATIONS

- 9.1 Performance on the procurement and usage of accommodation is monitored closely as part of the Health, Housing & Adult Social Care performance management framework. An action plan to reduce the reliance on Nightly Paid Accommodation (NPA) has been developed which is monitored at fortnightly meetings with the Assistant Director, and reported to the Departmental Management Team. The action plan enables monitoring of the accommodation portfolio and associated costs and pressures.

Appendix A

Accommodation type	Repairs included in charge by landlord / managing agent	Rental payments to landlord / managing agent due during void periods	Rent collected by Council	Contract period	Legal responsibility for eviction
Private leased annexes (PLAs) 770 units	Yes	First 7-10 day period, thereafter no charge paid	Yes	2-5 years	Council
Nightly paid accommodation (NPAs) 1100 units	Yes	No	Yes	Nightly	Landlord / managing agent
Housing association as landlord (HALs) 163 units	Yes	N/A	No – rent set & collected by RSL	2-3 years	Housing Association
Private sector leased annexes (PSLs) 660 units	No	Yes	Yes	2-3 years	Council

Appendix B

Accommodation Types

1.0 Nightly Paid Accommodation

This is the least secure accommodation as it is procured on a license with the property managed by the accommodation provider and all repairs and void re-servicing costs included in the charge.

This is the most expensive accommodation to procure as the accommodation provider is shouldering significant risk relating the use of the accommodation.

2.0 Private Leased Annexes

This accommodation is secured under a comparatively short term leasing arrangement of between one to three years. The accommodation is managed by an agent on behalf of the Council, with the agent taking responsibility for the void re-servicing and repairs. Again the cost of these activities is included in the charge with the void period averaging approximately 2%.

Ending a tenancy in a PLA property is more challenging as a lawful eviction process must be pursued with the responsibility and overhead for this type of action being borne by the Council.

3.0 Housing Association Leased Properties

These properties are procured and managed by housing association partners with responsibility for rent setting and collection sitting with the housing association.

The Council currently uses 5 Associations as partners with these Associations not expanding their portfolios due to the difficulty of attracting properties under the constraints imposed by the Housing Benefit subsidy formula.

4.0 Private Sector Leased Properties

These properties are procured, leased and managed by the Accommodation Services Team in Community Housing. The accommodation is procured at extremely competitive prices, usually well below the market price, (Local Housing Allowance) with the Council taking responsibility for property management, voids re-servicing and repairs.

Appendix C

Outcome of intelligence gathered and consultation with Accredited Suppliers

1.0 Overview

Consultation/Intelligence gathering was carried out with a number of accredited agents and both neighbouring and inner London Local Authorities (our competition) in order to find an optimum rate that would enable us to increase stock across all areas in a financially sustainable way. We carried out this research by telephone, face to face meetings, Accredited Supplier meetings, and supplier feedback forms. Please see Appendix A in the accompanying Part 2 report for commercial data evidencing the rates that other local authorities are offering.

2.0 Market Response

A number of both face to face meetings and telephone conversations were held with Private Leased Annex (PLA) providers to discuss the proposed rates.

Following intelligence gathering it became clear that a median rate across our competitors (other local authorities) would work out at around LHA – 10% + £40 to £60 per week. On discussion of this proposed rate with the suppliers it was in general agreed that not only would they be able to retain current stock this could enable them to acquire further units for the scheme. It is however accepted that a small amount of suppliers will not want to continue to do business with us due to the fact that they can achieve higher returns elsewhere.

The market reaction was mixed, with providers falling into 1 of 3 categories:

1. The majority will accept the rates and potentially acquire new units;
2. A small number of suppliers will accept the rates; however warned the Council that there is still a risk of landlords withdrawing from the scheme;
3. Accept the rates but will not sign up to a contract and are likely to migrate to the nightly paid market, and potentially other Councils

The main reason for differing response was predominately dependent upon their business operating model. Those that owned a large percentage of their properties were more content with the revised rates. The less percentage of properties that were owned the more reluctant providers were to accept the rates. Those providers who did not own any properties were clear that it was not commercially viable to continue operating at the margins they do.

3.0 Pressures

Landlords are demanding more rent for their properties predominately due to 3 main reasons:

1. There is strong demand for private rental properties paying higher rates
2. Visibility of Local Housing Allowance (LHA)
3. High rates achievable on agent led guaranteed rent schemes (increase in the use of high priced NPA)

Previously rent officers controlled the rental rates more; however with the publication of LHA, landlords are demanding much higher rental rates as they see what the Council pays via the Housing benefit system.

Rental rates paid by the Council have continued not to keep pace with the private sector or the demands of landlords; with some rates paid by the Council being less than those paid in 2002.

Neighbouring Boroughs are paying higher rental rates, which attract providers to migrate across. This is especially evident from a new tender placed by West London Boroughs potentially to offer current LHA plus £45 per week.

It was very clear from some PLA providers that their impression of the market was that it was at breaking point; however these views were from those that provided more of a managed service with less or no ownership of properties.

The market was looking for additional increases in rates ranging from £30 - £185 per month depending upon accommodation type. The Council should be mindful that there may come a time in the near future whereby a majority of PLA providers will not continue to provide these services without a substantial increase in rates.

4.0 Risks

The main risk is that PLAs will migrate away from the scheme to seek higher rates from other Authorities or the private sector. It should be noted that any migration will be undertaken in a controlled and managed process. No provider suggested withdrawing all their properties with immediate effect.

The Council may end up with more people being housed within the Borough from other Councils and a lack of accommodation to support Enfield's residents.

The Council will incur higher accommodation costs as they maybe forced to provide more expensive accommodation as the alternative is via the more highly costed nightly paid rates.

5.0 Issues to Consider

1. Set the rates as stated as are individually calculated on the councils need to convert high priced NPA by property size wherever possible;
2. Continue with the long term arrangement with main provider;
3. Continue to monitor the rate at which landlords and PLA providers withdraw from the scheme, and establish a critical number (700) at which a further review should be undertaken;
4. Attempt to work collaboratively with other Authorities to try and get parity of rates through the Inter Borough Accommodation Agreement/London Councils or to mitigate any migration of providers although this could mean increasing rates to the levels of other Authorities;
5. Establish a contingency measure that will allow for a potential increase in rates in the future to prevent a collapse in the Councils PLA providers.

MUNICIPAL YEAR 2015/16 REPORT NO.

ACTION TO BE TAKEN UNDER DELEGATED AUTHORITY

PORTFOLIO DECISION OF:

Cabinet Member for Education,
Children's Services & Protection

REPORT OF:

Director of Schools and
Children's Services

Agenda – Part: 1

Item:

Subject: St. Edmund's Catholic Primary School, Enfield – Provision of New School Meals Kitchen and Associated Works – Tender Acceptance Report.

Ward: Lower Edmonton

Key Decision Reference: KD 4117

Cabinet Members consulted:

Councillor Ayfer Orhan

Contact officer and telephone number: Sue Watson 0208 379 3222

Email: sue.watson@enfield.gov.uk

1. EXECUTIVE SUMMARY

- 1.1. This report provides details of the proposed building works at St. Edmund's Catholic Primary School, Enfield to provide a new school meals kitchen in order to enable the school to provide hot free school meals to all Key Stage 1 pupils to comply with Department for Education (DfE) statutory requirements from 1st September 2014 onwards and recommends the release of Universal Infant Free School Meals (UIFSM) Capital Fund 2015 grant funding totalling £250,000-00 towards the cost of this scheme.

2. RECOMMENDATIONS

- 2.1. That the contents of this report are noted;
- 2.2. To note that the Governing Body will accept the tender from Contractor "A" for the development of a new school meals kitchen and associated works at St. Edmund's Catholic Primary School with professional and technical expenses, loose furniture & equipment and VAT, details of which are given in Part 2 of this report,;
- 2.3. To authorise entering into a formal funding agreement with the Diocese of Westminster Education Service to contribute to the cost of this scheme from the allocation of UIFSM Capital Fund 2015 grant in the sum of £250,000-00 to the overall scheme as detailed in Part 2 of this report;
- 2.4. To authorise that the UIFSM grant payment is forwarded by Enfield to the Diocese of Westminster upon receipt from the Education Funding Agency (EFA).

3.

BACKGROUND

- 3.1. With effect from 1 September 2014 onwards, there is a statutory requirement for all Local Authorities to provide free school meals for all Key Stage 1 pupils. The DfE has advised that the expectation is that these would be hot meals and not sandwiches.
- 3.2. In November 2014 the Authority was invited to bid to the DfE/EFA for Universal Infant Free School Meals (UIFSM) grant funding for those schools which had difficulty providing hot free school meals to all KS1 pupils. St. Edmund's had already been identified as a priority by the DfE as 60 Reception aged pupils were having to eat sandwiches in their classrooms due to the lack of a full-cook kitchen.
- 3.3. It was also identified at that time that Enfield's top priority scheme was to provide a new school meals kitchen at St. Edmund's Catholic Primary School, Enfield as it was the only school in Enfield which still had meals transported in from another primary school and was not able to provide hot free school meals to all of its KS1 pupils.
- 3.4. Confirmation was received in writing from the Education Funding Agency (EFA) on 20th January 2015 that the bid submitted on behalf of St. Edmund's had been successful and that the maximum allocation of grant funding totalling £250,000.00 would be available towards the cost of the scheme. However, works must be undertaken and grant funding spent by 31 August 2015.

4. PROPOSALS

- 4.1. After detailed consultation, a design has been agreed with the Governing Body, Diocese of Westminster and Enfield Catering Services involving construction of a new school meals kitchen at the school together with associated works.
- 4.2. As the new kitchen will be created as a result of internal alterations to existing accommodation, planning approval is not required.
- 4.3. As this is a Voluntary-Aided school, procurement has been undertaken by Wilby & Burnett LLP (school consultants) on behalf of the School Governors and Diocese of Westminster. The tenders were obtained in accordance with the Education Funding Agency's (EFA's) Contract Procedure Rules and the EU principles of equal treatment, transparency, proportionality and non-discrimination, and the form of contract tendered was in accordance with the JCT Practice Note 6 (Series 2) "Main Contract Tendering". Alternative 1 is to apply to the examination and adjustment of priced tender documents (i.e. confirm or withdraw tender). A separate Part 2 report gives full details of the tenders that were submitted.
- 4.4. A Single Stage Tender process was used with tenderers selected from the Diocese of Westminster framework.

- 4.5. Tender documents were issued to 4 selected contractors in electronic form and hard copy on Monday 16th March 2015 for a tender period of 5 weeks to allow for the Easter Bank Holiday weekend. The tender return date being no later than Friday 17th April 2015.
- 4.6. All tenders submitted are considered by Wilby & Burnett LLP to be bona-fide and competitive. This has resulted in a recommendation to appoint Contractor "A". Further details of the tenders received are provided in the Part 2 Report.
- 4.7. As a result of a satisfactory financial check by the Diocese of Westminster and formal agreement by the Governing Body, it is proposed that Contractor "A" will be appointed.
- 4.8. The Governing Body of the school will enter into the contract with Contractor "A". The Diocese of Westminster will act as Banker for the scheme. UIFSM grant funding will be paid by Enfield Council to the Diocese of Westminster on receipt from the EFA. This will require a funding agreement in writing between the Authority and the Diocese of Westminster for the release of this element of funding for the overall scheme.
- 4.9. As this is a Voluntary Aided School, EFA approval is also required to the LCVAP funding element of this scheme and this is currently in the process of being obtained prior to works proceeding.
- 4.10. It is proposed that building work will start on site on 15 July 2015 with proposed completion by 18 September 2015.
- 4.11. An Operational Decision was signed by the Director of Schools and Children's Services on 30 April 2015 to agree the issue of a Letter of Limited Liability in the sum of £114,201.60 (gross including fees and VAT) to enable an order to be placed for the manufacture of the new bespoke kitchen equipment required as part of this scheme in order to avoid any delays and to allow commencement of the construction and mobilisation of the successful contractor to start on site on 15 July 2015.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1. There are no alternative options. The funding is earmarked for use at St. Edmund's Primary School, Enfield only. If the new school meals kitchen is not constructed, the EFA will ask for the funding to be returned to them and St. Edmund's will not be able to fulfil the statutory requirement to provide hot free school meals to all Key Stage 1 pupils at the school.

6. REASONS FOR RECOMMENDATIONS

- 6.1. The decision is necessary to provide authority for the release of UIFSM funds to the Diocese of Westminster. The Diocese of Westminster fully supports this project and is acting as Banker on the scheme and will reimburse the contractor as work progresses on the new school meals kitchen and enable grant funding to be spent by the required deadline of 31 August 2015 under the Terms and Conditions of UIFSM grant funding.
- 6.2. St. Edmund's is the only primary school in Enfield that does not have its own full-cook kitchen and had been identified by the DfE as not providing free hot meals to all KS1 pupils. 60 Reception aged pupils currently eat sandwiches in their classrooms and hot meals are transported in from another Primary school for the remaining pupils. This scheme will provide a full-cook kitchen at St. Edmund's to enable hot meals to be provided on site which will also enhance quality and nutritional value of the meals. Any delay will severely affect the ability of the school to provide hot free school meals to all Key Stage 1 pupils on satisfactory completion of the works as well as jeopardise meeting the EFA deadline of 31 August 2015 for the expenditure of the UIFSM grant funding.
- 6.3. In addition, the design has been future-proofed to enable the kitchen to provide free hot school meals to all pupils if this becomes a statutory requirement in the future.

7. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES

7.1. Financial Implications

- 7.1.1. The lowest compliant tender was received from Contractor "A" details of which are shown in the Part 2 report.
- 7.1.2. The £250,000 grant from the EFA has been received and it will be forwarded to the Diocese of Westminster once a funding agreement has been completed. As this scheme is entirely funded from external sources and this is the only financial transaction within the Council the scheme will not be part of the SCS capital programme.
- 7.1.3. The cost of the scheme will be closely monitored to keep within the budget available. However, the total sum of UIFSM grant funding will be utilised as a first priority towards the cost of this scheme to meet the 31st August 2015 spend deadline.

7.1.4. VAT Implications

The Council, as the Local Education Authority, is normally able to recover the VAT that incurs towards its supply of statutory education and activities that

are deemed to be closely related to the supply of education; such as the supply of meals to pupils.

The main criteria for VAT recovery are that the council contracts for the works, receives the supply, receives a VAT invoice in its name and pays with its own funds. However, the rules for VAT recovery on capital expenditure at Voluntary Aided schools are restricted because the council's responsibilities are deemed to relate only to the day to day running of the school and to the playing fields and buildings thereon (related to their use). The Governing Body are responsible for all other capital expenditure and attributable VAT is not recoverable by the council unless it certain conditions are satisfied.

St Edmunds CPS is a Voluntary Aided School and the council should not recover VAT on the capital expenditure of building a new kitchen. The Diocese/ Governing body will not be able to recover VAT if it is not VAT registered therefore, the council's contribution to the cost of the project may need to include a provision for the irrecoverable VAT.

There is however scope for the council to avoid funding irrecoverable VAT element on its contribution:

- If the council retains ownership and control of the funds, contracts for the works and places the order, receives a VAT invoice in its name, it will be able to recover the VAT incurred on its expenditure¹.
- The construction of the new building may qualify for zero rating if the Governing bodies can certify that the building will be used for a 'relevant charitable purpose'².

There are no partial exemption implications because the Contribution (including any provision for VAT) is Outside the Scope of VAT³

Notes

1-the passing of any funds to the LA by the GB, and the spending of delegated budget, represents consideration for a supply of works by the LA to the GB – to which normal VAT rules apply.

2-Notice 708, section 14.7

3-Please do not treat the contribution as Exempt or Zero rated as these will cause it to be included in the Partial Exemption Analysis.

7.2. Legal Implications

- 7.2.1. The Council has the general power of competence pursuant to s.1 (1) of the Localism Act 2011 to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. The proposals set out in this report are consistent with this power.

- 7.2.2. The development of a new school meals kitchen at St. Edmund's Catholic Primary School is a direct response to a call from the DfE/EFA to support projects that support schools and local authorities to meet their statutory responsibilities.
- 7.2.3. The value of the works is below the European Union's procurement threshold and as such the Public Contracts Regulations 2006/2015 do not apply. However, the Council must adhere to the EU principles of transparency, proportionality, equality and non-discrimination.
- 7.2.4. All goods, services and works commissioned (including the procurement and award of contract) under this report will be in accordance with Education Funding Agency (EFA) Contract Procedure Rules.
- 7.2.5. Any funding agreement described in this report must be approved by the Assistant Director of Legal Services and must comply with the Council's Contract Procedure Rules.
- 7.2.6. The Council must comply with any grant conditions imposed by the DfE/EFA in return for providing funding to the Diocese of Westminster Education Services. In making grants, the Council must be mindful of the rules relating to State Aid.
- 7.2.7. The proposal has been lodged as a Key Decision through the Council's Democratic Process since the total proposed capital expenditure exceeds £250,000 (Ref: KD 4117). Once approved, the decision to proceed will be subject to the usual call-in requirements.

7.3. Property Implications

- 7.3.1. The proposed project will ensure that sufficient accommodation is available to enable St. Edmund's Catholic Primary School, Enfield to be able to provide hot free school meals to all KS1 pupils from 1st September 2015 onwards to meet DfE statutory requirements/minimum guidelines.
- 7.3.2. The scheme has been competitively tendered to test the market. Paragraphs 4.4. to 4.8 above refer. The judgement of the Diocese of Westminster and Wilby & Burnett LLP is that the tender submitted by Contractor "A" is considered to be the most economically advantageous tender.
- 7.3.3. The professional costs (excluding surveys, planning fees, building control fees etc.) have been calculated on a percentage of the construction costs in accordance with Diocese of Westminster policy, in this case 12%.

8. KEY RISKS

- 8.1. The risk in not proceeding as recommended above is that the contractor will fail to complete the scheme on programme and St. Edmund's will not be in a