

## MUNICIPAL YEAR 2014/2015 REPORT NO.

### REPORT OF:

Directors of Schools and  
Children's Services and  
Finance, Resources and  
Customer Services

### DECISION OF:

Cabinet Members for Education,  
Children's Services and Protection  
and Finance

<b>Agenda – Part: 1</b>	<b>Item:</b>
<b>Subject: Ladysmith Road, Edmonton, N18 Site – Grant of Lease Wards: Upper Edmonton Key Decision: KD 3982</b>	

<b>Cabinet Members consulted: Councillor Ayfer Orhan Councillor Andrew Stafford</b>
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August 2014

### 1. EXECUTIVE SUMMARY

1.1. Approval has been obtained from the Education Funding Agency (EFA) for the sponsor, London Community Learning Trust (LCLT), in partnership with Enfield, to open a free school known as Meridian Angel Primary School in September 2014 at Ladysmith Road, N18 Enfield, the site having been previously a Public Open Space. The proposed new school will provide additional high quality primary school places to help meet the forecast demand. As funding would be provided by the government, this provides a cost-effective solution for the Council to the challenge of providing school places. As well as providing a new school, wider social benefits would also accrue to the local community.

1.2. This report seeks authority to enter into an agreement for lease with the LCLT/EFA for a 125-year term to Meridian Angel Primary School at the Ladysmith Road, N18 site and also to grant as necessary short term Licences for works pending the grant of the long Lease.

## 2. RECOMMENDATIONS

- 2.1. To authorise disposal of Ladysmith Road, N18 site by way of a 125 year lease;
- 2.2. To authorise entering into an agreement for lease with the LCLT/EFA;
- 2.3. To delegate authority to the Director of Schools and Children's Services and the Director of Finance, Resources and Customer Services to enter into the lease once the contractual obligations under the agreement for lease are unconditional.

## 3. BACKGROUND

- 3.1 It was agreed at the Cabinet meetings on the 16<sup>th</sup> October 2013, 12<sup>th</sup> March 2014 and 9<sup>th</sup> April 2014 to initiate and support the development of proposals for a primary age Free School as part of the Meridian Water development with a view to securing investment in educational expertise and capital assets for the long term success of local children, young people and the wider community.
- 3.2 Cabinet also authorised the Cabinet Member for Children and Young People to endorse one or more proposals for an Academy as part of the Meridian Water development with a view to accessing the following bidding window.
- 3.3. Report No. 15 presented to Cabinet on 23 July 2014 approved the updated strategy to provide the additional school places required up to 2018 including the Meridian Water development proposals (**KD 3943 refers**).
- 3.4. A competition was held to find the best Sponsor for the Academy to work with the Council and as a result LCLT (a consortium comprising: St. John's Church Edmonton & the Hanlon Centre, London Diocesan Board for Schools (LDBS) & the Southover Partnership) working together with the Education Funding Agency (EFA) and this Authority agreed to develop a proposal to submit to the Department of Education for the January 2013 bidding round to open a Free School from September 2014.
- 3.5 In response to the coalition government's policy for the development of free schools, the LCLT has developed a proposal for the establishment of a new primary free school, Meridian Angel Primary School, on the Public Open Space at Ladysmith Road,

Edmonton, N18. The new free school, Meridian Angel Primary School, would admit 60 children annually (i.e. 2 forms of entry) at primary level. The school would open in September 2014 admitting 30 children to reception class and then 60 children from September 2015 onwards.

- 3.6. The proposals for the new school set out the sponsors' ambitions in relation to admissions, teaching and learning approaches, SEN provision, inclusion policies, leadership and management, community engagement and sustainability. In addition, the LCLT has confirmed that all Terms & Conditions for the employment of staff will match the national Terms & Conditions i.e. the "London Living Wage".
- 3.7. Following consultation with Enfield Council, LCLT submitted a Free School proposal to the Department for Education (DfE) for the establishment of the new school in January 2013 which was approved in May 2013.
- 3.8. The new school will be located close to the existing community of Upper Edmonton in the Meridian Angel Neighbourhood.
- 3.9. The Council's Meridian Water Masterplan supports LCLT's aspirations and demonstrates how this would be achieved through the siting of a new primary school in this area. It is understood that the new primary school will also serve the existing communities in Upper Edmonton.
- 3.10. Use of the Ladysmith Road, N18 site, which is owned by the Council, was identified as an option for the location of a primary school in the neighbourhood within the Council's Meridian Water Masterplan.
- 3.11. The Council is being asked to enter into an agreement for a 125 year Lease, at a peppercorn rent, to the sponsor LCLT for the free school, Meridian Angel Primary School, on the Ladysmith Road, N18 site, previously a Public Open Space. The terms of the proposed Lease have been agreed in negotiations between the Council and the Education Funding Agency (EFA) and are broadly based on the model form of Lease prescribed by the EFA. This is largely similar to the standard Lease issued by the DfE in respect of Academies but contains some changes, with particular regard to assignment and termination clauses. The Heads of Terms (HoTs) for the 125 year lease are detailed in an accompanying Part 2 Report. The location and boundaries of the proposed site are shown in Appendix 1.

- 3.12. The agreement for lease is conditional on the tenant (LCLT) obtaining a satisfactory planning permission. Satisfactory planning permission is a permission, free from onerous conditions, which have been agreed between the parties. After planning permission is issued the lease will be granted. This is unusual in that the lease would normally be granted after the buildings has been constructed, in this case, the lease is a building lease.
- 3.13. It is essential that this Authority enters into an agreement for lease with the LCLT/EFA by 29 August 2014 to enable the new Meridian Angel Primary School to be constructed on the Ladysmith Road site within the timescales required.
- 3.14. Pending construction of the new school buildings at Ladysmith Road, N18, the LCLT and Meridian Angel Primary School have indicated that they wish to enter into a short Lease with the Council for the use of accommodation at Dysons Road, currently known as St. Matthew's CE Primary School Edmonton Annex, from 1<sup>st</sup> September 2014 until such time as the new school buildings on the Ladysmith Road site are ready to occupy. **(KD 3611 refers)**.
- 3.15. Once the agreement for lease for the 125 year Lease has been entered into, the LCLT intend to procure the major Design & Build (D & B) contract necessary to ensure that the school is a fit for purpose Primary School through the Academies/Free School Framework. The details and consent to works will be subject to separate authority once terms have been finalised.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1. Option 1 – Expand an existing school – this is not possible as the majority of other schools in the Upper Edmonton area are full to capacity or have already been expanded. There is therefore no other realistic alternative but to provide additional pupil places at Meridian Angel Primary School.
- 4.2. Option 2 – Find land elsewhere – as part of the Council's Meridian Water Masterplan land has already been identified at Ladysmith Road, N18 and this is the best option for the location of Meridian Angel Primary School.
- 4.3. Option 3 – Find an alternative sponsor – the LCLT bid has already been approved by the EFA who have both worked in partnership with this Authority to develop the proposed scheme. Any change to the sponsor would involve a further bidding process which would need to be approved by the Education Funding Agency and would delay the completion of the provision of the new school buildings.

4.4. The current phase of the Council's strategy to address the forecast shortfall in school places in the South East of the Borough includes provision of a 2FE free school as part of the Meridian Water development as set out in the Cabinet Report considered on 23 July 2014.

## **5. REASONS FOR RECOMMENDATIONS**

5.1. The Council has a statutory duty to ensure the supply of school places. In view of the forecast demand for school places and the financial context in which the Council is operating, options for providing additional places that avoid placing additional demands on the Council's capital programme are desirable.

5.2. This proposal will bring with it a capital investment from the EFA to provide a purpose built 2 form of entry primary school, providing state of the art teaching facilities for the children of Enfield.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **6.1 Financial Implications**

The open space land at Ladysmith Road has a current existing use valuation of £10k. The Council will not receive any consideration for the transfer of the main school site except for the peppercorn rent agreed as part of the Lease.

A contribution from the EFA of £275,000 to fund the provision of one additional classroom at the St. John's Dysons Road site has been agreed to enable the school to admit an additional 30 Reception age pupils in September 2014 approval for which is subject to a separate report (**KD Ref. 3882**).

Under regulation any open spaces disposed of must be reprovided for within the Borough and as such an alternative site must be identified. Work is currently underway to transform a derelict site at Rays Road that sits between Montagu Industrial Estate and a residential section of North Edmonton into a new Public Open Space to be known as Angel Gardens. This £1.6m scheme is funded by both the Council and the GLA through its Pocket Parks Programme. Approval for this scheme was granted on 25<sup>th</sup> February 2014.

### **6.2 VAT implications**

The grant of a 'true' peppercorn is non-business for VAT if, in the context of the overall contract, the peppercorn is the only consideration received

otherwise, the lease falls to be exempt from VAT. The grant of a true peppercorn lease to the EFA (Education Funding Authority) would be non-business and VAT incurred by the council in relation to this lease should be recoverable under S33 of VAT Act 1994. However, if HMRC interpret the receipt of the £275k funding from the EFA as further consideration towards the lease then the non-business treatment would no longer be applicable i.e. the sublease becomes exempt from VAT and any expenditure incurred by the council will contribute to the council's Partial Exemption (PEX) limit. The forecast PEX for 2014/15 is 3.82% and 2015/16 is 3.70% which gives a headroom of 1.18% (£500k VAT) and 1.3% (£550k VAT) respectively.

#### VAT recovery

VAT can be recovered on expenditure which the council incurs as principal; i.e. it must contract for the works, receive the supply, receive a VAT invoice in its name and pay for the supply with its own funds (corporate funds or any grant funding applied for by and awarded to the Council). The VAT would count towards the council's 5% PEX de-minimis limit. Where VAT is incurred by the council in its capacity as agent for a third party, it cannot recover the VAT.

### **6.3 Legal Implications**

The Council has the power under s123 of the Local Government Act 1972 ("the 1972 Act") to dispose of its land in any way it thinks fit, provided that disposal is for the best consideration that it can be reasonably obtained.

Consent of the Secretary of State is required if the difference between the market value of the land and the consideration accepted is more than £2m.

Property Services has confirmed the market value of the land is under £2m, therefore the difference between the value and the consideration of £1 rent falls within the permitted threshold and the land can be disposed under the general consent under the 1972 Act.

In addition, s2A of the 1972 Act prevents disposal of land consisting of Open Space unless the Council serves notice of its intention to dispose in the local paper for two consecutive weeks.

The notice of disposal was first published on the 16<sup>th</sup> and then a week later on 23<sup>rd</sup> July 2014. The notice expires on 14<sup>th</sup> August 2014. At the date of this report no objections have been received.

The Council is obliged to consider objections to the disposal.

The Lease will be in a form approved by the Assistant Director of

Legal Services.

The Council has a duty under section 13 of the Education Act 1996 to ensure that there are sufficient primary school places in its area. The proposal set out in this report is in accordance with that duty.

#### **6.4. Property Implications**

The Core Strategy sets out the planning framework for the delivery of Meridian Water, a new urban mixed use community. The Council has recently adopted the Meridian Water Masterplan (2013) providing detailed planning and urban design guidance on the implementation of these policies. The site lies within the masterplan area and the new primary school will form a vital piece of community infrastructure that will meet existing need and newly arising need from the homes that will be developed to the west of Meridian Water. However, It is understood the new school will also serve the existing communities in Edmonton.

The provision of a school on this site will result in a loss of open space in the short term. However, the Council is bringing forward other schemes for open space in the nearby vicinity but also, the Masterplan proposes re-provision towards the centre of the Meridian Angel Neighbourhood and include shared facilities/pitches with the new school as well as providing for flood storage.

Before disposing of any land consisting of, or forming part of an open space, the Council must first publish its intention to do so, and consider any objections which may be made to it.

The proposed EFA funded new build scheme will require planning permission. An Agreement for Lease is to be entered allowing the EFA to undertake construction work. Prior to this any survey works to be undertaken by the EFA will need to be under licence.

Additional comments have been included in the Part 2 Report.

### **7. KEY RISKS**

Construction of an LCLT Free School/Academy on the previous Ladysmith Road, N18 site should provide an opportunity to help address a number of risks facing the Council at the present time including:

- 7.1 the forecast demand for the school places; and
- 7.2 funding (which is to be provided by the government)
- 7.3. There is a risk that if popular and successful Enfield schools near the borders of neighbouring boroughs are provided, then this could

encourage an influx of pupils from those boroughs if they have not been successful in expanding their own provision.

- 7.4. Actual pupil numbers will be carefully monitored against projections to ensure that the Council strives to provide places in the actual areas of demand (i.e. local places for local children). Officers will also continue to engage in regional and bilateral discussions about the provision of places to assess provision in other Boroughs.
- 7.5. Additional comments have been included in the Part 2 Report.

## **8. IMPACT ON COUNCIL PRIORITIES**

### **8.1 Fairness for All**

The free school, Meridian Angel Primary School, will fully comply with the School Admissions Code and the School Admissions Appeals Code. As a state funded school, it will provide free education for pupils in the local area. Although the school will have a Christian ethos, it will be open to all children in the local community, regardless of their faith and seeks to be a fully inclusive school. The school is intended to serve as a priority those families living in Upper Edmonton and those who will move into new homes in the Meridian Water regeneration area.

### **8.2 Growth and Sustainability**

The new school will attract capital investment from the EFA in good quality school buildings and generate additional employment in the Upper Edmonton Ward. The site will be landscaped. The building will conform to all modern building regulations including sustainability requirements.

By ensuring that places are provided in areas of highest demand, this will ensure that pupil mobility across the Borough is kept to a minimum. This therefore means that increased road travel is minimised and families can be encouraged to walk to school.

Additional comments have been included in the Part 2 Report.

### **8.3 Strong Communities**

The free school, Meridian Angel Primary School, will be a diverse school, servicing a local community from many different cultures, backgrounds and religious beliefs. The school will expect that all children and their families show tolerance and respect towards each other. Wherever possible the academy facilities will be made available to the local community. The design of the buildings will, where possible, aim to encourage community engagement.



## **9. EQUALITIES IMPACT IMPLICATIONS**

An EQI assessment was completed for approval of the overall Schools Expansion Programme (SEP) strategy in June 2012. The strategy was developed to ensure that there are sufficient places across the Borough to meet demand, that these places are not discriminatory and to ensure that all children have access to high quality education.

The delivery of the strategy is updated annually following a review of pupil place projections. In accordance with the publication of statutory notices, full consultation with residents and parents will be conducted.

## **10. PERFORMANCE MANAGEMENT IMPLICATIONS**

The provision of places at the proposed new school will assist the Authority in meeting its statutory duty to ensure the availability of sufficient pupil places to meet projected demand.

## **11. HEALTH AND SAFETY IMPLICATIONS**

The CDM Regulations will apply to the construction of the new Meridian Angel Primary School and the requisite notices and Health and Safety information will be issued to the contractor, once appointed, by the EFA/LCLT.

## **12. PUBLIC HEALTH IMPLICATIONS**

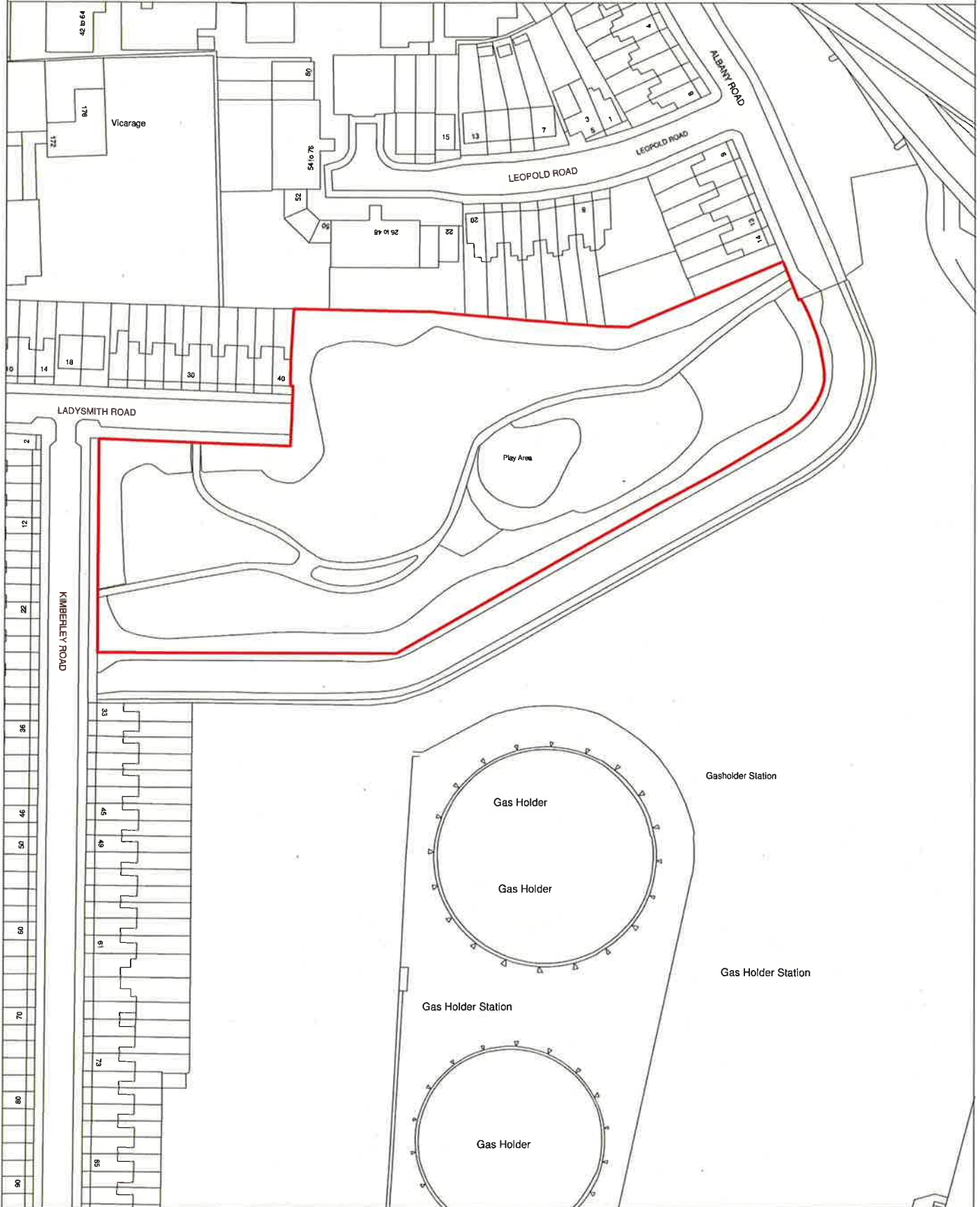
Providing primary school places in the area where there is demand will encourage parents to walk to school. This will impact on the health and well-being of the public in Enfield. Walking to school will encourage healthy lifestyles and reduce pollution caused by traffic.

### **Appendices:**

Appendix 1 - Red line site of Ladysmith Road, N18



# Ladysmith Open Space Edmonton



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Scale:- 1:1250  
 Paper Size:- A4  
 Date:- June 2013  
 Map Produced By Asset Information Team/AVLH





**MUNICIPAL YEAR 2014/2015 REPORT NO.**

**MEETING TITLE AND DATE:**  
**Portfolio Key Decision KD 3881**

**REPORT OF:**  
Director of Schools & Children's  
Services and  
Director of Finance, Resources &  
Customer Services

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<b>Agenda – Part:1</b>	<b>Item:</b>
<b>Subject: Garfield Primary School Re-Provision and Expansion to 3 Form Entry Approval for Contract Award under the School Expansion Programme Wards: Southgate Green,</b>	
<b>Cabinet Members consulted:</b> Cllr A Orhan, Cllr A Stafford	

## **1. EXECUTIVE SUMMARY**

- 1.1 This report covers the next decision to implement the Strategy agreed in the Cabinet Reports of June 2013 and July 2014. A range of expenditure is required to cover detailed work by contractors on design, preparatory work such as surveys, enabling works and placing advance orders for materials and for modular units. These commitments to expenditure are covered by operational decisions and the contracts have been subject to competitive tender.
- 1.2 In line with Contract Procedure Rules and decisions on the School Expansion Programme Procurement Strategy made by the Council's Strategic Procurement Board in November and December 2013, the Crown Commercial Service (CCS) framework and Exor has been used to procure the identified contractors for modular building supply and for infrastructure works.
- 1.3 Portfolio Holders' approval is sought for contract award and scheme expenditure including pre-construction services, infrastructure works, supply of the modular building and other associated orders. This approval is required to enable works to proceed on programme progress to deliver pupil places in September 2015.
- 1.4 The scheme expenditure has been determined from tender returns and represents a significant increase on previous estimates due primarily to the current state of the construction market where the recovery in the housing market has significantly increased demand for construction work and the education market in London is still seeing demand driven by many Councils and the Education Funding Agency expanding or building school. Capacity in the construction sector is stretched and this results in higher costs. The sloping nature of the site has also required particular design measures and significant groundwork.
- 1.5 The operational budget for the Phase 2 School Expansion Programme was updated in the July 2014 Cabinet Report on 'Strategy and approach to delivering pupil places' – the overall budget remains within the existing allocation on the Capital Programme, which for 2014/15 to 2017/18 is £72.1m. Individual project costs and any required changes will be managed and reported through the quarterly SCS Capital Monitor updates to the Capital Programme.

## **2. RECOMMENDATIONS**

- 2.1 That the Cabinet member for Education, Children's Services and Protection and the Cabinet Member for Finance approve the following:
- 2.1.1 Contract Award of the Modular Building Supply package by accepting the tender of the preferred contractor in the sum of £6,680,418.00 following tender issue to five contractors and five returns;
  - 2.1.2 Contract Award of the Infrastructure Works package by accepting the tender of the preferred contractor in the sum of £3,048,519.50 following tender issue to five contractors and one return;
  - 2.1.3 Total Scheme expenditure of £12,406,200 including enabling works and client side costs of £2,472,800 to cover including professional and technical fees, Furniture and Equipment, Information and Communication infrastructure, traffic mitigation, cash advances to school and project contingency; and
  - 2.1.4 That the Director of Schools and Children's Services allocates project contingency, via operational decisions, where required;
  - 2.1.5 That the Cabinet Member for Education, Children's Services and Protection and the Cabinet Member for Finance note:
    - Whilst the commitments sought for this scheme are above the original SCS Capital Programme allocation for this scheme the revised estimate is within the SCS Capital Monitor update due to be presented to Cabinet in September 2014;
    - All payments will be made in arrears; and
    - That Legal Services will process the contract documentation (Execution) and the pursuit of any necessary consents from the Secretary of State for Education to release any surplus land arising from the consolidation of the site.

## **3. BACKGROUND**

- 3.1 The Borough of Enfield's population is projected to rise by approximately 14,000 people between 2014 and 2022. This reflects changing patterns of migration, birth rates, comparative rents, the implications of housing benefits reform (displacement from Inner London) and numerous other factors.
- 3.2 On 20th June 2012, Cabinet approved a revised Primary Strategy that will provide further additional school places from September 2013. The Primary Strategy was updated and approved by Cabinet in July 2014 which provided further detail on additional school places and the supporting funding and approved the establishment of an overall School Expansion Programme (SEP) to cover expansions over and above primary school expansions.
- 3.3 In June 2013, Cabinet approved the establishment of the School Expansion Programme to provide a second phase of permanent primary school expansions, including delivery of Garfield which had been rolled over from Phase 1.

- 3.4 This project has been developed to provide the accommodation required by the School to permanently expand from 2 to 3FE. The new build project received planning permission in February 2014.
- 3.5 Key decisions are now required to support tender acceptance and contract award which allows implementation of the construction works to deliver the project. It is imperative that these contracts are in place by the end of August 2014 to maintain progress against a challenging programme.

#### **4. PROCUREMENT**

- 4.1 The procurement approach for the project was agreed by Strategic Procurement Board in November 2013.
- 4.2 In November 2013, Council's Strategic Procurement Board (SPB) agreed that construction procurement for the buildings would be via the Framework route from the current shortlist of:
- Government Procurement Service (GPS) - Modular Buildings (now Crown Commercial Service – CCS)
  - Improvement and Efficiency Social Enterprise (IESE)
  - London Housing Consortium (LHC)
  - SMART East
  - Scape
- 4.3 SPB approved the recommendation that the procurement approach for Garfield Primary School would utilise the GPS Framework for the modular building elements plus tender via the EXOR accredited list of contractors for Infrastructure Works (which will be below the EU threshold). The Crown Commercial Service (CCS) replaced the Government Procurement Service (GPS) but the RM875 framework for Modular Buildings remained unchanged.
- 4.4 **The Modular Building Supply Package**
- 4.5 Five companies were asked to tender from the Crown Commercial Service (CCS) Framework for Modular Building Systems Framework in line with the approach agreed with SPB. All five submitted a return but the deadline had to be extended to achieve that.
- 4.6 The five submissions have been assessed and whilst the costs are significantly higher than expected they are in line with current market conditions. Tenders were evaluated in accordance with the requirements of the framework. On this basis, the preferred tenderer was recommended for acceptance having submitted the tender with the most competitive cost that meets our requirements in terms of timetable and specification and is considered to represent good value in the current market. A detailed tender report for this package is included with the Part 2 Report. It should be noted that these costs are generally in line with the cost of traditional construction.
- 4.7 Discussions around the cost of the modular package are ongoing and consist of two main elements. Final design and compliance runs the risk of cost increase. In parallel, discussions on value engineering options could see a decrease in costs of up to £499,000. Allowances for the cost



implications of these discussions have been made in the project contingency and will be allocated if costs ultimately increase.

- 4.8 Despite the higher than expected tender return prices on modular package reflecting current market conditions, the decision remains to proceed with modular for this project as representing best value under the circumstances. Both modular and traditional construction sectors are showing capacity issues with resulting increases in prices across the sector, particularly for education projects. There are no expected savings from traditional build and a retender for traditional construction may not have received a different result and would delay delivery of the works considerably, creating other associated risks and leading to the Council not being able to meet its statutory duty to provide school places.
- 4.9 **The infrastructure works package**
- 4.10 Five companies confirmed capability to tender from the EXOR accredited list in line with the approach agreed with SPB. However only one company submitted a tender return, which is a reflection of the current market conditions in construction and in the education sector in particular. Many local authorities in London and England are seeking to deliver school expansion schemes, the construction sector has begun to over-heat with associated issues of lack of capacity in the sector, rising costs and resultant increases in tender prices. Enquiries were made with the other four companies that withdrew and all cited a lack of resources and capacity as the reason for not returning a tender.
- 4.11 On this basis the single return was assessed and recommended as being suitable on the basis that the sole tenderer submitted a competitive tender that meets the specified requirements in terms of timetable and specification and is considered to represent value for money. A detailed tender report for this package is included with the Part 2 Report. This explains that the tender is within a reasonable margin of the original estimate when London indices for inflation are factored in. The Council's professional advisers and technical team consider the tender return and pricing reasonable taking into account the particular difficulties arising from developing a sloping site, which has required significant groundwork and design measures.
- 4.12 As a minimum of three tenders returned are required by Contract Procedure Rule 5.2 Tendering Requirements and only one tender was received. The Council has tested the market but got only one response (due to ongoing capacity issues within the construction sector). A retender may not have received a different result and would delay delivery of the works, leading to the Council not being able to meet its statutory duty to provide school places. Therefore in the circumstances, the waiver was the appropriate way forward. The alternative would have been to re-tender with a high risk of low or no tenders returned due to market conditions and an associated significant negative impact on the overall build programme for the project due to increased timescales. Therefore, a waiver was applied for and approved by Corporate Procurement on 1 August 2014 (ref: 9J6F-H4ZUXT).

## **5. ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 Enfield Council has a statutory responsibility to provide the necessary school places. This revised strategy to provide the additional capacity

and expertise to ensure that this programme is delivered on time and providing best value for the Council. Not providing places cannot be considered an option.

5.2 The following proposals have been considered but rejected:

- Increasing class sizes to over 30 pupils. Current legislation stipulates that Key Stage 1 classes cannot exceed 30 pupils with only one qualified teacher. This does not apply to Key Stage 2. However, school accommodation does not normally allow for more than 30 pupils in one class base.
- The use of community halls as emergency class bases. This option has been explored with a number of head teachers in relation to the development of the Partner School initiative. However, the revised strategy seeks to deliver a programme of permanent expansions.
- Not entering into contract for either of the works packages. This option has been discounted as the extra building capacity is required at Garfield school for September 2015 and the delay in re-tendering would make that impossible to achieve.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1 The Council has an overriding statutory duty to provide sufficient pupil places to meet anticipated demand. The strategy will deliver the additional places required in the areas of the highest demand over the short term, up to 2018. The expanded capacity aims to provide a higher level of flexibility built in to counter sudden increases in demand.
- 6.2 Evaluation of the tender returns and subsequent discussions with the contractors have reached a stage where we can enter into contract. The tender returns and scheme costs have been reviewed by the Council's Corporate Maintenance and Construction Team and recommended as representing good value given current market conditions. The tender reports are included in the Part 2 version of this report.

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

### **7.1 Financial Implications**

- 7.1.1 The latest cost estimate for this scheme following the tender process is £12.406m and the detailed breakdown is attached as Appendix A in the Part 2 report. The planned spending profile is shown in the table below. The expenditure prior to 2014/15 has been incurred on preliminary professional and technical fees required to initiate the scheme. The cost of the scheme has increased from the provisional estimated scheme estimate of £8.4m reported to Cabinet on 24 April 2013. This increase is due to the finalisation of the specific scheme requirements, notably dealing with the sloping site as referred to in 4.10, and takes into account a 26% increase for changes in the construction market cost indexes and the current market conditions. A value engineering exercise will be undertaken as part of cost control and management and initial savings of £499,000 have been identified as part of the modular works and subject to further discussions with the modular contractor. These cost increases have been contained within the overall School Expansion Programme (SEP) budget which was agreed at Cabinet on 23 July 2014.

SCHEME	Actual 12/13 & 13/14	14/15	15/16	Total
	£000's	£000's	£000's	£000's
Garfield	416	6,165	5,825	12,406

7.1.2 The proposed expenditure will be funded as per the table below:

	Garfield
	£000's
Expenditure	12,406
Funded By:-	
Government Capital Grants	8,603
S106 Receipts	902
Capital Receipts & Unsupported Borrowing	2,901
<b>Total</b>	<b>12,406</b>

7.1.3 The original Cabinet Report in April 2013 included funding gained from specific land disposals. Disposal of surplus land will take place but will not be released until the works are completed. Work has commenced internally to initiate the process of transferring surplus land to non-education use. If any future disposal proceeds are received they will then be used to replenish the corporate capital resources. The disposal of any surplus land will require the consent of the Secretary of State for Education and must be in compliance with the Property Procedure Rules

7.1.4 The S106 funding will not be triggered until the commencement of a substantive development at Ladderswood and this may also be phased through the development. Should this not be available to fund the expenditure in 14/15 and 15/16, then additional corporate capital resources or grant funding will be required. If the s106 funding currently earmarked for this scheme is received after completion then it will be used to fund other educational schemes in the Ladderswood locality.

7.1.5 An initial value engineering exercise has commenced to identify savings as part of the modular building package and this could amount to up to £499,000 of savings. The opportunity for detailed value engineering exercises is subject to appointment of contractors and will be undertaking post contract.

## 7.2 VAT Implications

The supply of statutory education by the Council is deemed to be a non-business for VAT; therefore the council is able to recover VAT incurred towards this supply under the provisions of S33 of VAT Act 1994 if it procures/contracts for the works, receives the supply, receives a VAT invoice in its name and pays with its own (corporate) funds. This rule applies particularly to Council maintained schools like Garfield Primary School.

The estimated capital expenditure will contribute no more than £52,000 exempt input VAT to the council's partial exemption status (PEX). The yearly contributions will be £3,900 in 2012 & 2013, £46,800 in 2014, £217 in 2015. The partial exemption contributions from the expansion work is in

itself not significant, however there are other projects lined up which together with this, could result in significant contributions to the PEX. It is therefore recommended that continuous monitoring of all projects to ensure that the impact remains insignificant till completion in 2014-15 and also to ensure that the 5% de-minimis limit is not breached

### **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 19 of the Education and Inspections Act 2006 and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 allow school governing bodies and LA's to expand an existing school following a prescribed consultation. Section 111 of the Local Government Act 1972, includes the power to do anything ancillary to, incidental to or conducive to the discharge of any of its statutory functions. The recommendations within this report are in accordance with these powers.
- 7.3.2 In accordance with the Councils Constitution, the Council is able to utilise EXOR and to utilise frameworks such as the Crown Commercial Service (CCS) Framework for Modular Building Systems. The Council must ensure compliance with the framework terms.
- 7.3.3 Contracts for the works/services/supplies to the school will need to be in a form as set out under the CCS Framework, which need to be in a form approved by the Assistant Director of Legal Services or where the procurement is via EXOR in an industry standard form approved by the Assistant Director of Legal Services.
- 7.3.4 Under the provisions of the Education Act 2011 and the Academies Act 2010 Local Authorities are required to obtain the consent of the Secretary of State to dispose of any land or change the use of land that is or has been used as a school within the last 8 years. In the event that any of the land identified is classed as play field as defined by s.77 of the School Standards and Framework Act 2008 an additional consent may be required. The Government has issued non-statutory guidance on the procedure and circumstances for making an application for consent.

### **7.4 Property Implications**

- 7.4.1 The Strategy set out in this report will provide additional primary places in local areas of need.
- 7.4.2 To meet statutory requirements it is vital to ensure that the Council's financial accounts do not include buildings (or parts of buildings) that have been demolished. To ensure we have high quality records and meet our statutory obligations Education Asset Managers will complete a demolition notification form and return to Property Services. This will enable Strategic Property Services to advise Insurance, Finance (Asset Register) energy management teams and various other departments within the Council of the changes.
- 7.4.3 The use of modular construction will assist with speeding up the construction process, but requires significant investment upfront in the design process. The modular construction also significantly improves a

buildings environmental performance, overall sustainability and lower operating costs to the Councils Property portfolio.

- 7.4.4 Property Services are to be sent the new data being generated for the expansion of these schools. These include floor plans with room data for the purposes of the Council's Asset Management System, Atrium.
- 7.4.5 Planning permission has been gained for the new build on 25 February 2015. Building Regulations will be adhered to as part of the infrastructure enabling and construction works. The oversight of this will fall under the Council's Contract Administrators (CA's).
- 7.4.6 Once the development is completed, Building Control will need to sign off on the completed development. All warranties and guarantees will be available in the event that building failure occurs. These guarantees will be assigned after practical completion occurs and held on behalf of the Council by Legal Services.
- 7.4.7 There should be a requirement upon the contractor at certain set dates for snagging inspections. These inspections will be organised by the Council's CA's.

## **8. KEY RISKS**

### Cross Borough Boundary Displacement

- 8.1 There is a risk that if popular and successful Enfield schools near the borders of neighbouring boroughs are expanded then this could encourage an influx of pupils from those boroughs if they have not been successful in expanding their own provision. This is mitigated by consultation with neighbouring Boroughs to manage intake where there is capacity.
- 8.2 Actual pupil numbers will be carefully monitored against projections, to ensure that the Council strives to provide places in the actual areas of demand (i.e. local places for local children). Officers will also continue to engage in regional and bilateral discussions about the provision of places to assess provision in other Boroughs.
- 8.3 Project level risks are managed through established working practices within SCS and CMCT as Client Advisor to CMCT and use of corporate tools such as VERTO to report to the Programme Executive (which functions as the SEP programme board).

### Concerns about school expansions

- 8.4 Experience to date suggests that the three most significant factors likely to cause concern to some stakeholders are car parking, increased traffic flows and the exterior treatments of outward facing structures. The programme and project team members has worked closely with the school and Governing Bodies to ensure that designs are of high quality and that issues of concern are addressed in the design proposals, including traffic management once technical information is available.
- 8.5 Both the informal and statutory rounds of consultation will be managed in a way that makes them accessible to stakeholders, including residents, to maximise opportunities for input.

### Basic Need Funding

8.6 The annual submission to the Department for Education (DfE) is based on identifying existing capacity in the system. Thus, close monitoring of pupil numbers and a review of projections will ensure that the Council is best placed to maximise any Basic Need Funding for the provision of school places.

#### **Delivery Timescales**

8.7 Each school year the Council will have to fulfil its statutory duty to provide sufficient school places. Programme and project milestones will be clearly identified and progress monitored closely by the Programme Executive and Board which is made up of stakeholders, Cabinet Members, Headteachers, Governors and Council officers at the most senior level.

#### **Costs**

8.8 The estimated cost of expansion as outlined in the body of the report could well place additional strain on the Council's finances. If Government grant funding or the anticipated s106 contribution is not forthcoming then additional unsupported borrowing might have to be a route to funding school expansion but this would have a significant impact on revenue budgets. For every £1 million of borrowing, an additional pressure of £85,000 will need to be added to the annual revenue budget, and therefore other savings will be made as part of the Council's annual budget process.

8.9 The overall programme cost and the amount included on the Capital Programme will be reviewed as part of an annual programme review in April that will consider the updated statistics on pupil places; levels of school provision, particularly planned Academy or Free School provision; construction market inflation and the progress of individual projects.

8.10 Costs for each established project will be managed through the project and programme management governance arrangements already put in place and be subject to the Council's usual due diligence and value for money tests. Changes in estimated costs, established budgets and the spend profile will be managed through the Capital Programme via the quarterly Capital Monitor updates to Cabinet. Value engineering exercises will be undertaken where necessary and appropriate to identify savings to the build costs.

8.11 Wider economic and market conditions are now a major factor in terms of contract costs which are increasing due to capacity in the construction industry to meet demand from the public sector commissioning education projects. As previously stated, the construction index lags behind real market conditions suggesting it will increase again next year. Statutory requirements around the provision of places and guidance around teaching space sizes limit options on reducing the quantity of provision. Reducing the quality of provision will not be able to counter balance a buoyant construction market and in addition to increasing the risk of higher maintenance costs it could have a negative impact on school Head Teachers' and Governors' willingness to support expansions in the first place. Additionally they may even form a negative view of the Council as a stakeholder.

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

### **9.1 Fairness for All**

9.1.1 This proposal will result in pupil places being created across the Borough in order to meet demand in the relevant geographical areas which will also create employment opportunities for teaching and support staff. Further improvement and investment in school buildings will provide greater opportunities for enhanced community use.

## **9.2 Growth and Sustainability**

9.2.1 By ensuring that places are provided in areas of highest demand, this will ensure that pupil mobility across the Borough is kept to a minimum. This therefore means that increased road travel is minimised and families can be encouraged to walk to school.

## **9.3 Strong Communities**

9.3.1 The proposals outlined in this report will provide additional places in parts of the Borough where pressure on local schools is forecast to be greatest. The extra places provided in the neighbourhoods of highest demand will help satisfy demand in these specific areas and will ensure that young children will not have to travel unmanageable distances to and from school.

9.3.2 The proposals in this Strategy will allow the Authority to have greater control over the provision (and potential future reduction) of pupil places, allowing more opportunities to stabilise local communities and ensure that there are local places for local children.

## **10. EQUALITIES IMPACT IMPLICATIONS**

10.1 An equality impact assessment was completed for approval of the strategy in June 2012 and for PEP2 in December 2013. The strategy was developed to ensure that there are sufficient places across the Borough to meet demand, that these places are not discriminatory and to ensure that all children have access to high quality education. In accordance with the publication of statutory notices, it will be necessary to complete full consultation with residents and parents where there is a proposal to permanently expand a school.

## **11. PERFORMANCE MANAGEMENT IMPLICATIONS**

11.1 The provision of additional places at the schools identified in this report will enable the Authority to meet its statutory duty to ensure the availability of sufficient pupil places to meet demand.

11.2 The strategy presented in this report is consistent with the national agenda for expanding popular and successful schools.

## **12. HEALTH AND SAFETY IMPLICATIONS**

12.1 As all of the PEP projects will involve contractors working on existing school sites, the Council will ensure that contractors provide the highest level of Health and Safety on site.

12.2 There are no specific health and safety implications other than the impact of additional traffic, generated by increased numbers at the PEP schools. Working with Highways, funding has been included in the cost summary to allow for traffic mitigation measures on each of the schemes. As part of the planning approvals process, traffic impact assessments have to be submitted for each scheme, and the Planning committee will have to give approval.

12.3 Garfield Primary School Travel Plan gained Bronze Accreditation in June 2014.

### **13. PUBLIC HEALTH IMPLICATIONS**

- 13.1 Providing primary school places in the areas where there is demand will encourage parents and carers to walk to school. This will impact on the health and well-being of the public in Enfield. Walking to school will encourage healthy lifestyles, and reduce pollution caused by traffic.