

**MUNICIPAL YEAR 2014/15 REPORT NO.**

**ACTION TO BE TAKEN UNDER  
DELEGATED AUTHORITY**

**PORTFOLIO DECISION OF:**  
Cabinet Member for Education,  
Children's Services & Protection

**REPORT OF:**  
Director of Education and  
Children's Services

**Agenda – Part: 1**

**Item:**

**Subject: Release of Targeted Basic Capital  
to Expand Oasis Hadley by One Primary  
Form of Entry**

**Ward: Ponders End  
Key Decision Reference: 4098**

**Cabinet Members consulted:  
Councillor Ayfer Orhan**

Contact officer and telephone number: Sue Watson 0208 379 2459

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**1. EXECUTIVE SUMMARY**

- 1.1 In April 2013 the Authority was invited to bid to the Department for Education/Education Funding Agency for Targeted Basic Need funding to expand schools. The application on behalf of Oasis Hadley proposed the primary department was to be expanded by 210 pupil places and was successful bid.
- 1.2 Recommends the release of £1,860,341 outstanding Targeted Basic Need Capital grant towards the cost of this scheme.
- 1.3 Recommends allocating an additional ££171,967.80 Basic Need grant funding in support of the scheme.

**2. RECOMMENDATIONS**

- 2.1. That the contents of this report are noted;
- 2.2. That the LA's has implemented due diligence in monitoring the project development, design and procurement process compliance with statutory obligations undertaken by Oasis Hadley Academy. In addition the oasis Hadley Academy has met the terms of the funding agreements of both the Education Funding Agency and with Enfield;
- 2.3. To approve the release to oasis Hadley the Targeted Basic Need Programme capital grant payment received by Enfield to the value £1,860,341.
- 2.4 To authorise the allocation of ££171,967.80 Basic Need capital grant in support of the project funding shortfall.

### **3. BACKGROUND**

- 3.1. In April 2013 the Authority was invited to bid to the Department for Education/Education Funding Agency for Targeted Basic Need Programme (TBNP) grant funding towards the cost of increasing schools capacity for additional places as a result of population growth. SCS officers prepared applications for thirteen school expansion projects. As a condition of the grant all applications were coordinated through the LA on behalf of non-mainstream schools and therefore SCS offices coordinated bids on behalf of one Voluntary Aided school and three academy schools, which included oasis Hadley Academy.
- 3.2. The application on behalf of Oasis Hadley proposed the primary department was to be expanded by 210 pupil places, bringing the new total to 630 places. Enfield supported the schools bid as the proposal provided for much needed additional pupil places.
- 3.3. Confirmation was received in writing from the Education Funding Agency (EFA) on 01 August 2013 that eleven of thirteen the TBNP bids had been successful. The successful bids included Oasis Hadley Academy and the funding allocation to the project was £2,010,340. The EFA confirmation letter included a funding agreement between Enfield and the EFA for the delivery of all eleven projects in return for the TBNP funding grant.
- 3.4. As the stated in 3.3 Enfield has entered a funding agreement with the EFA and therefore potentially responsible for the expansion proposal should the project fail to provide additional places. To minimise the risk to the Council a further funding agreement with Oasis Hadley Academy was drawn up to ensure the school delivered the primary expansion as defined in the EFA funding agreement. A further mechanism to minimise risk to the Council was also implemented by SCS officers by being members of the oasis Hadley expansion Project Board, allowing direct monitoring of key decisions, designs and project progress.
- 3.5. With the EFA agreement with Enfield allowed for payment of a support grant of £150,000 to Oasis Hadley Academy, which has been implemented. This leaves an outstanding TBNP allocation of £1,860,341 yet to be release towards the cost of this scheme.

### **4. PROPOSALS**

- 4.1. After detailed consultation, a design has been agreed by the school involving construction of a new floor to be added to the existing two storey wing of the main building. This allows accommodation to be freed up in the ground floor to provide additional primary classroom accommodation.
- 4.2. Planning approval for the scheme was granted by Planning Committee on 26 January 2015.

## **6. REASONS FOR RECOMMENDATIONS**

- 6.1. The decision is necessary to provide authority for the release of TBNP funds to Oasis Hadley Academy if the funding to be spent by the required deadline of 31 August 2015, under the Terms and Conditions of TBNP grant funding which have been formally agreed and signed by the Director of Schools and Children's Services.
- 6.2. The existing primary accommodation is already full to capacity and there is no possibility of taking any additional pupils without the proposed additional accommodation. Any delay will severely affect the ability of the school to accommodate additional students from September 2015 onwards as well as jeopardise meeting the EFA deadline of 31 August 2015 for the expenditure of the grant funding.
- 6.3. The shortfall of funding means there is a possibility of the project may not go ahead and the expansion will not be achieved unless the Council supports the expansion by providing additional funding of £171,967.80.

## **7. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES**

### **7.1. Financial Implications**

- 7.1.1. As this scheme is being procured and financially managed externally it will not be included as part of the Schools and Children's Services capital programme.
- 7.1.2. However the cost of the scheme will be closely monitored by council officers to ensure it keeps within the budget available. The Enfield Council contribution towards the cost of this scheme is limited to the amount of the TBNP grant funding received from the EFA and the additional contribution. However, the total sum of TBNP grant funding will be utilised as a first priority towards the cost of this scheme to meet the EFA 30 August 2015 spend deadline. If the grant is not spent by this date or additional places provided there is a risk that the grant will be repayable to the EFA as the grant conditions had not been met.
- 7.1.3. The entering of a formal agreement with Oasis Hadley Academy will ensure that they also comply with the EFA grant conditions and protect Enfield Council from any loss of grant resulting from a breach.
- 7.1.4. The allocation of £171,967.80 additional funding from Basic Need will leave a funding shortfall in the Schools Expansion Programme (SEP) which will need to be identified from other sources, such as future year capital grant allocations. SCS will work with Finance Officers to identify the required resources to prevent a shortfall in the SEP.

- 4.3. Oasis Hadley's expansion project design team prepared tender documentations and invited six construction companies to tender. The tenders were obtained in accordance with the EFA's Contract Procedure Rules for Academies.
- 4.4. Tender documents were issued to the selected contractors in electronic form and hard copy, with the tender return date being no later than 12 noon on 12 January 2015. Oasis Harley Academy agents, MDB Associates, received four tenders, two companies declined. Oasis Hadley's agents arranged interviews and a detailed tender report was produced (the tender report was shared with SCS officers and is considered to be thorough and complete analysis of the tender returns).
- 4.5. All tenders submitted have been considered by MDB Associates. to be bona-fide and competitive. This has resulted in a recommendation to appoint Ensigna Construction Ltd. A copy of the tender report is available for scrutiny by officers but it is the property of a third party private organisation and therefore not a public document.
- 4.6. As a result of a tender interview and satisfactory financial check by the MDB Associates, Oasis Hadley Academy wish to enter into contact with Ensigna Construction Ltd at the tendered sum of £1,868,885. However this leaves a funding gap as demonstrated below:

Total build Costs( inc. fees)	£2,234,044.95
FFE & ICT Cost:	£171,967.80
TOTAL Cost:	£2,406,011.80
TBNP grant	£2,010,340.00
Hadley Contribution:	£171,967.80
Total:	£2,182,307.80
SHORTFALL:	£223,704.00

- 4.7. The project is to provide high priority additional school places and the initiative has been supported by Enfield from the outset. If the project failed the Council would not have the benefit of the additional places and other school expansion schemes would need to be implemented. In discussions with the school an agreement has been reach for the LA support the expansion project by providing an additional £171,967.80, the school providing the £51,736.2 difference. It is therefore recommended that £171,967.80 of the funding shortfall be met from Basic Need capital grant allocation.

## 5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1. There are no alternative options. The funding is earmarked for use Oasis Hadley Academy only. If the accommodation is not constructed, the EFA will insist, as per the funding agreement that the money is returned to them and the additional places will not be made available.

### **7.1.5. VAT Implications**

## **7.2. Legal Implications**

7.2.6. 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 4098). 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 oasis Hadley Academy to be able to accommodate up to 210 additional primary students from 1<sup>st</sup> September 2015 onwards to meet DfE minimum guidelines.

## **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 oasis Hadley Academy will not be in a position to admit additional primary age students from 1<sup>st</sup> September 2015 onwards.

8.2. Under the original Terms and Conditions of the TBNP grant allocation, if work to the value of the TBNP grant funding is not completed by the 31 August 2015 deadline, the EFA could reclaim the TBNP funding already paid and/or retain any unpaid grant funding. SCS officers will work with oasis Hadley Academy and the EFA to minimise the risk.

8.3. Costs will managed through the project and programme governance arrangements already put in place by oasis Hadley Academy..

8.4. A Risk Register has been set up by oasis Hadley to identify and manage project risks.

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

### **9.1. Fairness for All**

9.1.1. The proposal will result in additional places being created for 4 to 11 year olds for education and training as a result of population growth. This will also create employment opportunities for teaching and support staff. Further improvement and investment in school buildings will provide improved educational facilities for new and existing students in addition to greater opportunities for enhanced community use.

### **9.2. Growth and Sustainability**

- 9.2.1. Numerous items have been included within the scheme, in discussion with Enfield Planning Sustainability officer, so that it will comply with current Building Regulations as far as sustainability is concerned. These items are spread across subheadings including pollution, water, land use and ecology, materials, management, health & wellbeing and energy.
- 9.2.2. 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 students can be encouraged to either walk to school or make use of public transport.

### **9.3. Strong Communities**

- 9.3.1. The proposals outlines in this report will provide additional places for 4 to 11 year olds in an area of the Borough where population growth is greatest.

## **10. EQUALITIES IMPACT IMPLICATIONS**

- 10.1. This development will enable oasis Hadley Academy contribute towards Enfield's Primary Places Strategy and admit up to 210 4 to 11 year old students in purpose built facilities thereby assisting this Authority in meeting its statutory requirement to provide sufficient pupil places in the Borough.

## **11. PERFORMANCE MANAGEMENT IMPLICATIONS**

- 11.1. The provision of the new facilities at the school identified in the report will enable the Authority to meet its statutory duty to ensure the availability of sufficient places for 4 to 11 year olds to meet demand.
- 11.2. As new primary school buildings are provided, the aim will be to provide high quality sustainable facilities, designed to enable learning for the 21<sup>st</sup> century and to further improve levels of attainment.
- 11.3. The strategy presented in this report is consistent with the national agenda for expanding popular and successful schools.
- 11.4. The design achieves a building of statutory compliance utilising building elements, components and materials selected having due regard for their durability and ease of maintenance. A low maintenance building is sought. The energy strategy will make the building thermally efficient to reduce the heating energy demand.

## **12. HEALTH & SAFETY IMPLICATIONS**

- 12.1. The CDM Regulations will apply and the requisite notices and Health and

Safety information will be issued to the contractor.

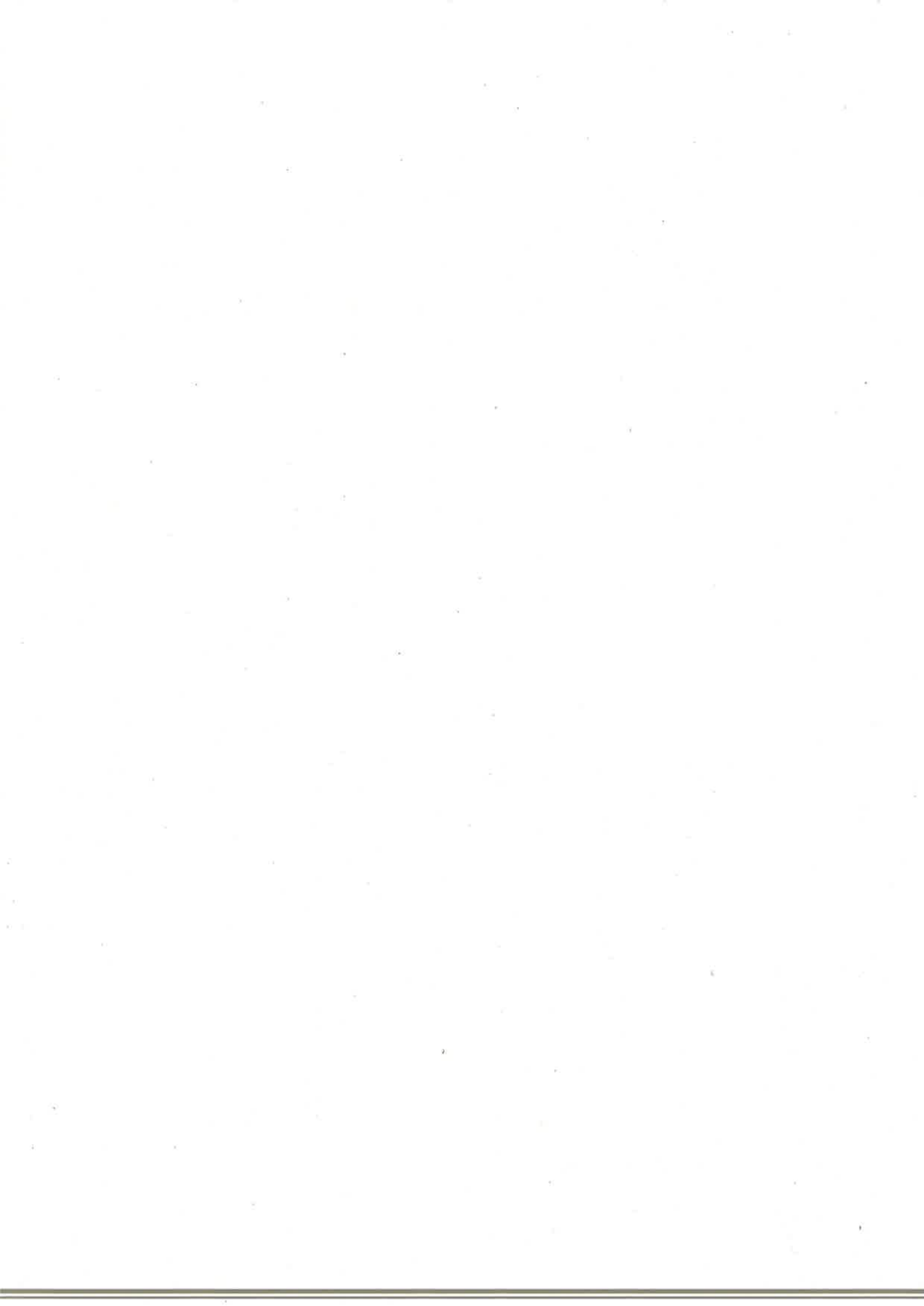
- 12.2. Any proposed long-term works will also need to ensure compliance with the Workplace Reform Agenda for staff facilities.

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

- 13.1. Providing additional places for 4 to 11 year olds in the area where there is demand will encourage students 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.

### **Background Papers**

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

**MEETING TITLE AND DATE:**  
Delegated Authority Report 16<sup>th</sup>  
February 2015

**REPORT OF:**  
Ray James Director Health,  
Housing & Adult Social Care

<b>Agenda – Part 1</b>	<b>Item:</b>
<b>Subject: New Avenue Developer Partner Indemnity Agreement</b>	
<b>Ward: Cockfosters Key Decision: KD 3793</b>	
<b>Cabinet Member consulted: N/A</b>	

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**1. EXECUTIVE SUMMARY**

- 1.1 The New Avenue Estate is located in the Cockfosters ward of the Borough. The New Avenue Estate is one of the Council's priority regeneration areas and the estate is located near the main A111 road leading to the hub of Southgate.
- 1.2 Cabinet 22<sup>nd</sup> October 2014 (KD3793) authorised the appointment Countryside Properties as the Council's preferred development partner for the New Avenue Regeneration Programme.
- 1.3 Currently we are in contract discussions with the developer in relation to the proposed development of the site.
- 1.4 The report explains that having an indemnity agreement in place will allow a planning application to be pursued, in respect of the site, prior to the Development Agreement being engrossed.

## **2. RECOMMENDATIONS**

- 2.1 That the indemnity agreement be approved so the Council can begin working with the preferred developer and their appointed architects, prior to the Development Agreement being engrossed. This will allow both a flood risk assessment to be undertaken in time to inform the development proposals, and allow residents to be fully consulted before a planning application is submitted by the end of 2015 as planned.
- 2.2 Note that the costs covered by the proposed Indemnity Agreement are costs that will be met by the developer under the terms of their tender proposals. The Council will only be liable for costs in the event that the pending Development Agreement is not exchanged.
- 2.3 Note that both parties will use their best endeavours to engross the contract by 31st May 2015. To mitigate the risk to the Council, of sharing any costs associated with pursuing the planning application, the date for not being in contract before the Council would be liable for any planning costs has been extended to 31st December 2015.
- 2.4 Note that in the unlikely event that the Development Agreement is not exchanged any associated costs up to the agreed sum will be shared and evidenced on an open book basis. This is commercially sensitive information so included in the Part 2 report.
- 2.5 Note that the preferred developer will grant the Council an irrevocable, perpetual, royalty-free, non-exclusive licence to use and reproduce all designs prepared by or on behalf of the developer in connection with the site.
- 2.6 Note that the value of such intellectual property will be twice any potential cost to the Council so going forward would represent a considerable saving to LBE in the unlikely event that the contract is not agreed.
- 2.7 Note that points 2.3, 2.5 and 2.6 will further increase the likelihood of the Councils preferred developer entering into contract with the Council to develop New Avenue.

## **3. BACKGROUND**

- 3.1 The New Avenue estate renewal scheme forms a core part of the Corporate Housing Strategy. The regeneration area is located in the Cockfosters ward of the London Borough of Enfield; 0.9 miles to Southgate Tube Station and 1.0 mile to Oakwood Tube Station.
- 3.2 The project was approved by Cabinet in July 2012 (KD 3519) and authorised the Director of Health, Housing and Adult Social Care, the Director of Finance, Resources and Customer Services and the Assistant

- 6.1 Developer to work at risk until the Development Agreement is engrossed. The developer is only prepared to share the risk so this is not an option.
- 6.2 Put the planning works on hold until the Development Agreement has been engrossed. This would cause delay in delivering the project and so damage the Council's reputation with the New Avenue Panel Board and local residents.

## **7. REASONS FOR RECOMMENDATIONS**

- 7.1 The Council and the preferred developer are currently using their best endeavours to complete the contract.
- 7.2 It is important that the above matters are progressed without delay if stakeholders are to meet the planned timeline for submitting a planning application by the end of 2015 and subsequently a December 2016 start on site.
- 7.3 Any associated costs up to the agreed sum will be shared and evidenced on an open book basis. Please refer to the Part 2 Report paragraph 2.2.
- 7.4 The intellectual property rights that the Council would hold as a result of the work undertaken to pursue a planning application for New Avenue, detailed at point 2.4 and 4.2, would both mitigate the risk of the developer walking away from the project and represent a significant saving to Council going forward should the contract not be agreed.

## **8. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES**

### **8.1 Financial Implications**

- 8.1.1 Please refer to the Part 2 Report of the same subject.

### **8.2 Legal Implications**

- 8.2.1 Under s1 of the Localism Act 2011 the Council has the power to do anything that individuals can do subject to the limitations set out therein. The statutory limitations of the s1 'general competence' power do not affect the ability of the Council to enter into the indemnity agreement. The recommendations in this report accord with the Council's powers.

### **8.3 Property Implications**

- 8.3.1 The proposed grant of an undertaking has no property implications. The undertaking relates to payment of consultants costs that will only be incurred in the event that the proposed Development Agreement is not exchanged.

Director for Legal Services to take forward the procurement of a development partner including finalising terms of the development agreement and any associated agreements.

- 3.3 Following a competitive tender process using the HCA Development Partner Panel Framework (HCA DPP 2009/S144-211068) October 2014 Cabinet (KD3793) authorised the appointment of Countryside Properties as the Councils preferred development partner for the New Avenue Regeneration Programme.

#### **4. CURRENT POSITION**

- 4.1 Enfield Council are currently in Subject to Contract discussions with the preferred developer in relation to the proposed development of the Site.
- 4.2 In order to progress matters and mitigate against future delay the Council agree in principal to share the risk associated in pursuing a planning application in respect of the site, including the preparation of RIBA stages A-D planning drawings.
- 4.3 In light of a culvert running across the site, a flood risk analysis and careful consideration needs to be undertaken by the developer early in the process to inform the development proposals. This will maximise the development potential of the site whilst not increasing flood risk elsewhere and potentially reducing the flood risk locally.
- 4.1 The intention of both parties is to use best endeavours to complete the legal agreements in relation to the New Avenue site before 31<sup>st</sup> May 2015. To reduce the risk to the Council, of potentially being liable to share any associated planning costs, the date set to complete the contract by in the Indemnity Agreement is 31<sup>st</sup> December 2015.
- 4.2 Countryside have agreed to grant LBE an irrevocable, perpetual, royalty free, non-exclusive licence to use and reproduce all designs and associated reports prepared by or on behalf of Countryside in connection with the planning application.

#### **5. CONSULTATION**

- 5.1 To be able to submit the planning application by December 2015, as planned, Countryside Properties and their appointed architects need to begin consulting with planners, holding a series of design workshops with local residents and start drafting plans forthwith.

#### **6. ALTERNATIVE OPTIONS CONSIDERED**

## **9. KEY RISKS**

9.1 Please refer to the Part 2 report of the same subject.

## **10. IMPACT ON COUNCIL PRIORITIES**

### **10.1. Fairness for All**

The design workshops represent an opportunity for all sections of the community to influence the plans before the application is submitted to planning.

### **10.2. Growth and Sustainability**

Growth and sustainability are central to the proposals for the New Avenue Estate. Progressing matters now to avoid delays will benefit residents sooner rather than later.

### **10.3. Strong Communities**

The proposals involve the community in the decisions that will shape their area and foster a greater sense of community cohesion.

## **11. EQUALITIES IMPACT IMPLICATIONS**

11.1. A full equalities impact assessment has been prepared for the project.

## **12. PERFORMANCE MANAGEMENT IMPLICATIONS**

12.1. The performance management implications have all been considered and are covered within this report and the accompanying Part 2 report.

## **13. HEALTH AND SAFETY IMPLICATIONS**

13.1. All bidders passed the mandatory health and safety evaluation.

## **14. HUMAN RESOURCES IMPLICATIONS**

14.1. There are no additional resource implications as a result of progressing planning matters prior to the contract being signed.

## **15. PUBLIC HEALTH IMPLICATIONS**

15.1. There are no public health implications that arise as a result of progressing the plans before the contract is signed.

## **Background Papers**

None.

