

MUNICIPAL YEAR 2015/2016 REPORT NO.

**ACTION TAKEN UNDER
DELEGATED AUTHORITY**

OPERATIONAL DECISION OF
Director – Regeneration and
Environment

Agenda – Part: 1	KD: 4231
HOUSING DEVELOPMENT & ESTATE RENEWAL – Funding for Affordable Housing	
WARD: Cockfosters	

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1. EXECUTIVE SUMMARY

- 1.1 This report seeks approval to release monies received by the Council as affordable housing contributions under Section 106 agreements for the provision of affordable housing in the Borough.
- 1.2 Currently it is proposed to allocate some of the s106 affordable contributions to the New Avenue scheme to support the additional affordable housing units on the estate renewal scheme.
- 1.3 The New Avenue Estate Renewal project is an estate regeneration that will provide a mix of private and affordable housing and associated community facilities. The required quantities and housing mix, including market and affordable housing would make the project financially unviable, and would result in an inadequate provision of affordable housing on the Estate. For this reason the Council is minded to provide the desired level of affordable housing using additional funding from the affordable housing contributions.

2. RECOMMENDATION

That the Director of Environment approves the release of £865,591.00 Section 106 contributions received for the provision of affordable housing in the Borough to support the delivery of affordable housing on the New Avenue estate renewal scheme and other such developments as shall be agreed.

3. BACKGROUND

- 3.1 The Council has now procured Countryside as a development partner to assist with the redevelopment of the New Avenue Estate Renewal project.
- 3.2 One of the obligations being placed on the development partner is a requirement to provide 140 new homes that will remain in Council ownership.
- 3.3 The requirement to provide this level of Affordable housing on the New Avenue, development will be unviable without a funding contribution from the Council. Therefore the Council recognise the requirement to use the Affordable Housing commuted sums to provide this contribution.

4. ALTERNATIVE OPTIONS CONSIDERED

Unless the s106 affordable housing contributions are used for the intended purpose, the Council shall be obliged to return the unspent amounts to developers with any accrued interest. This would negate the purpose of requiring developers to contribute to the provision of affordable housing in the Borough as a result of carrying out new developments.

5. REASONS FOR RECOMMENDATIONS

To release available funds for the provision of affordable housing within the Borough.

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

6.1 Financial Implications

The total remaining S106 contributions for Affordable Housing at the end of 2014/15 is £865,591.99. It is anticipated that this amount will be fully spent on New Avenue development scheme.

6.2 Legal Implications

Affordable housing contributions are received from developers for the provision of affordable housing in the Borough under planning agreements.

The Council is entitled to spend the money it receives under S106 planning agreements in accordance with the terms of such agreements.

6.3 Property Implications

The release of s106 contributions for the provision of affordable housing will contribute to the increase of affordable housing in the Borough.

7. KEY RISKS

The risk to the Council of not using the funds for affordable housing obtained under the planning agreements is that if unspent in the period of (usually) ten years, the money must be repaid to developers with all accrued interest.

8. IMPACT ON COUNCIL PRIORITIES

8.1 Fairness for All

The allocation of available funding for affordable housing will increase the number of affordable homes in the Borough.

8.2 Growth and Sustainability

Ensuring all properties are in beneficial use improves the streetscape in an area designated as a regeneration priority.

8.3 Strong Communities

Improving housing choice and the appearance of the area assists in the creation of a stronger community.

9. EQUALITIES IMPACT IMPLICATIONS

The development and refurbishment proposals will not cause a change to policy, or service delivery and therefore an Equalities Impact Assessment is not considered necessary.

10. PERFORMANCE MANAGEMENT IMPLICATIONS

Not applicable.

11. HEALTH AND SAFETY IMPLICATIONS

Not applicable.

12. PUBLIC HEALTH IMPLICATIONS

12.1 There is a body of evidence which suggests that living in poor housing can lead to an increased risk of cardiovascular and respiratory disease as well as anxiety and depression. Problems such as damp, mould, excess cold and structural defects which increase the risk of an accident also present significant hazards to health.

12.2 Proposals, therefore, to increase the supply of new affordable, good quality energy efficient housing that address fuel poverty will help to alleviate the incidence of specific illnesses and generally improve the health and well-being of those who live in the borough.

Background Papers

None

MUNICIPAL YEAR 2015/16 REPORT NO.

**ACTION TO BE TAKEN UNDER
DELEGATED AUTHORITY**

PORTFOLIO DECISION OF
Cabinet Member for Children
Children's Services & Protection

REPORT OF:
Director of Schools and
Children's Services

Agenda – Part:1	Item:
Subject: Addendum School Condition, Fire Safety and School Kitchen Programme 2015/16 to 2017/18 Key Decision reference: KD4210 Wards : All	

Cabinet Member Consulted: Councillor Ayfer Orhan
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November 2015

<p>1. EXECUTIVE SUMMARY</p> <p>1.1. Under the Scheme for Financing Schools, the Council retains responsibility for major items of repair in schools. Condition is one strand of the Schools' Asset Management Plan along side Sufficiency and Suitability. In June 2015 a programme of projects (KD4079), totalling £4.2 million, was approved to rectify and eliminate repairs items of a high technical priority for consideration in 2015/16 and £3.1 million for 2016/17 with indicative projects for 2017/18.</p> <p>1.2. The report (KD4079) also noted that the 2015/16 Maintenance Grant allocation for Enfield of £12.1 million was higher than expected and a further report would be provided to identify the strategy for the allocation additional maintenance grant received. Officers have now had time to evaluate the most effective strategy for maximising the benefit of the additional grant.</p> <p>1.3. Officers have evaluated school building need in terms of condition and demand for school places. Appendix A identifies the projects to add to the corporate capital programme.</p>
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2. RECOMMENDATIONS

2.1. It is recommended that approval be given to:

(a) That subject to the confirmation of the DfE Maintenance Grant allocations for 2016/17 and 2017/18 the proposed projects identified in appendix A are added to the School Condition, Fire Safety and School Kitchen programme 2015/16 to 2017/18.

(b) Key Decision reference of works including professional and technical expenses detailed in Appendix A to this report or any other emergency schemes proceeding up to the total Programme value of £37.9 million.

(c) the Director of Schools & Children's Services, by way of an operational decision, to:

(i) approve tenders for individual schemes or schemes of aggregated value up to a maximum of £250,000 including professional and technical expenses;

(ii) manage the Programme in a flexible way within the overall budget available, to take account of variations between estimates and tender costs and the need to substitute schemes having a greater technical priority if the need arises using the tender acceptance report pro forma; and

(iii) allocate any contingency provision (up to a maximum of £250,000 including professional and technical expenses) to emergency projects and/or to schemes identified as priority but not yet programmed

2.2 To note that:

(d) a portfolio decision will be sought in relation to the approval of tenders for any proposals exceeding £250,000 in value professional and technical expenses.

(e) the Department of Education (DfE), informed Enfield that four projects Walker, Durants, Brimsdown and Eldon bids were successful bids under the Priority Schools Building Programme 2 initiative.

3. BACKGROUND

3.1. The Council as Corporate Landlord is responsible for major works to address the condition of community and foundation schools. Such works mainly relate to building structure, roof replacement and electrical and mechanical services. Separate funding streams are available for Voluntary Aided Schools for this work through the LCVAP Programme. Under the Scheme for Financing Schools, the de minimis limits for delegation for repairs and maintenance is £36,000 for primary and special schools and £53,000 for secondary schools. Community and foundation schools are also wholly responsible for the cost of external decorations, internal painting and the maintenance of boundary fencing, playgrounds and drainage systems.

- 3.2. On the 9 February 2015 the Department for Education (DfE) announced the 2015/16 Maintenance Grant allocation for Enfield of £12,142,980 which is much higher than the indicative figure of £4,200,000 anticipated in the Corporate Capital Programme. As this announcement was later than expected the full amount of funding was not incorporated in the Budget 2015/16 and Medium Term Financial Plan 2015/16 to 2018/19. This was to prevent delay in consultation with Corporate colleagues and therefore it was proposed to proceed with authorising the schools' 2015/16 Capital Programme up to the Council approved value of £19.434m.
- 3.3. The DfE recently wrote to Director of Children's Services (DCS) to confirm the £12,142,980 grant and to inform the authority that the figure of £12.1 million was the indicative grant for the financial years 2016/17 and 2017/18.
- 3.4. A School Condition, Fire Safety and School Kitchen Programme 2015/16 to 2017/18 was formulated to address the most urgent condition items. Projects were prioritised for inclusion in the Programme based mainly on technical information in condition surveys commissioned by CMCT Services. Projects were ranked as far as possible according to the extent of urgency using the Department for Education definitions. Approval was given to proceed with the SCS capital programme 2015/16 and medium term plans for 2016/17 and 2017/18 (KD4079).
- 3.5. In line with previously agreed procedures, it is proposed that the Director of Schools and Children's Services should continue to be authorised to approve tenders for individual schemes or schemes of aggregated value up to a maximum of £250,000 including professional and technical expenses. Any schemes £250,000 or above will be the subject of a portfolio decision and lodged as a Key Decision within the Council's Democratic process.
- 3.6. It may be necessary to amend the Programme to take account of variations between estimates and tender costs and the need to substitute schemes having a greater technical priority such as breakdowns of heating systems or plant, if the need arises. It is proposed that the Director of Schools and Children's Services should continue to be authorised to take relevant action in such cases.
- 3.7. The DfE recently announced Priority Schools Building Programme 2 (PSBP2) and invited authorities to bid for condition based school projects. The PSBP2 initiative was aimed at schools with the worst buildings to be rebuilt or in need of significantly refurbishment. SCS officers prepared six bids of the highest priority poor condition schools in Enfield, which included in order of priority:
- .1 Broomfield Secondary School - whole school rebuild.
 - 2 West Lea Special School - whole school rebuild.
 - 3 Walker Primary School- Whole school rebuild.
 - 4 Durants Special School - Old Building rebuild
 - 5 Brimsdown Primary School – Kitchen rebuild
 - 6 Eldon Primary School – Kitchen rebuild

The DfE informed Enfield that four projects Walker, Durants, Brimsdown and Eldon bids were successful. The Education Funding Agency (EFA) has not yet indicated what monetary value is attached to the successful bids but the EFA have invited Enfield to be a pilot for local project delivery. Following DfE announcements a further report will be brought forward to update members on PSBP2.

4. PROPOSAL

4.1. The additional funding offers a real opportunity to make a significant impact on condition priority projects at schools that would otherwise not have been able to be progressed. The new projects recommended to be added to the School Condition, Fire Safety and School Kitchen Programme 2015/16 to 2017/18, totalling £14.1 million in 2015/16, 2016/17 and 2017/18 are detailed in Appendix A. The projects proposed maximise the impact of the additional capital on the school estate as well as provide additional special school places. The projects identified are as follows:

- a. Broomfield – significant repairs to building fabric and services
- b. West Lea – partial rebuild
- c. Aylands– partial rebuild
- d. De Bohun - significant repairs to building fabric services and address accommodation shortage.
- e. Hazelbury kitchens – a new kitchen and dining facility to provide meals to 1050 pupils.
- f. SEP funding support

The first two projects, Broomfield and West Lea, were identified as Enfield highest priority PSBP2 bids but were unsuccessful:

a) Broomfield Secondary School

The condition survey identifies a number of priority condition works within the building fabric, building services, external works and internal refurbishment.

Broomfield Condition works	Condition survey	Capital works	Expenditure todate	Outstanding capital works
Building Fabric	£ 945,810	£ 945,810	£ 496,000	
Building Services	£ 1,995,200	£ 1,995,200		
External works	£ 325,700.00	£ 325,700		
Internal Refurbishment	£ 8,738,260			
	£ 12,004,970	£ 3,266,710	£ 496,000	£ 2,770,710

Internal refurbishment is not normally considered in the development of capital projects as this falls into the school's responsibility to undertake a rolling programme of internal refurbishment. During the financial year 2013/14 the school suffered a number of closures due to heating system failure. Although repairs were implemented there still remains a high risk of school closure due to heating system failure. Also the poor thermal properties of the building and windows means the heating system is under further strain.

Therefore the allocation of £2.7 million is to replace where necessary the building services, windows, repair roofs and external areas.

There is a risk that the actual work budgets will exceed the initial project estimates. In this eventuality the overall budget allocation will be capped and works revised to maintain the budget allocation.

b) West Lea Special School

The West Lea project has two aims; the removal of poor condition buildings and the increase of special school places.

There is a significant demand in Enfield for Special School places, particularly in the behaviour and Autistic Spectrum. Currently demand is met by mainstream school resource provisions or sending the pupil to out of borough special school placements, the latter has a significant cost implication.

The main school building, although requiring remedial works and replacement services, is generally structurally sound. However there are four additional/temporary poor condition buildings, the larger building is an asbestos based HORSIA style building. The HORSIA style building is life expired and beyond repair. The maintaining of these buildings is currently a drain on both the school's and LA's resources.

The proposal is to demolish the additional/temporary buildings and replace them with a two story fit for purpose building. This proposal increases the available special school places by twelve and removes life expired buildings (also reducing maintenance costs).

Project allocation £3.8 million is based on feasibility estimates. There is a risk that the actual work budgets will exceed the initial project estimates. In this eventuality the overall budget allocation will be capped and works revised to maintain the budget allocation.

c) Aylands Special School

Ayland's main school building is what is termed as a CLASP building. CLASP stands for Consortium of Local Authorities Special Programme; set up in the 1950s to deliver schools quickly and cheaply, using pre-fabricated system build to satisfy the demands of the post war population bulge for education buildings. CLASP buildings have a 60 year design life which Aylands, built in 1969, is nearing end of design life. Extending or altering CLASP steelwork, particularly column positions, is expensive and complex.

When initially constructed the building contained significant amounts of asbestos products. Although much of the asbestos has been removed from the ceiling voids there remain large areas of sealed asbestos within column voids. The asbestos and steel structure makes maintenance and refurbishment difficult and expensive. The Health and Safety Executive have issued specific guidance for maintaining safety in CLASP style buildings.

As stated in above b) West Lea there is a significant demand in Enfield for Special School places, particularly in the behaviour and Autistic Spectrum. The proposal for Aylands includes an expansion in the number special school places, the exact number will be defined in the project feasibility stage.

The proposal is to demolish the main school building and replace with a two storey building.

Project allocation £4.7 million based on early feasibility estimates. There is a risk that the actual work budgets will exceed the initial project estimates. In this eventuality the overall budget allocation will be capped and works revised to maintain the budget allocation, a further report will be brought forward if necessary to approve any variations.

d) De Bohun - significant repairs to building fabric and services.

Structural concrete repairs have been identified as a high priority and some works have already been commenced. However as the school building has a grade 2 listing meaning all repairs and all proposed work must be approved by Historic England. Maintaining the building character to the restrictions set by Historic England increases the funding required to undertake repairs.

As stated above some works have already commenced to undertake structural repairs and window replacement but as the required repairs are extensive, only the worst affected areas have been programmed in the SCS capital programme. In addition the school has been subject to closure due to issues with the heating system. Although the main boilers have been replaced there remains a risk of school closure from failure or the original heating distribution system. De Bohun is currently delivering hub children's centre services without sufficient accommodation.

The proposal is to undertake further structural repair and window replacement and replace the worst affected parts of the heating distribution system. If the budget allows further work will be carried out to resolve the lack of accommodation.

The project allocation of £500k supplements the current SCS capital programme approved allocation. There is a risk that the actual work budgets will exceed the initial project estimates. In this eventuality the overall budget allocation will be capped and works revised to maintain the budget allocation.

e) Hazelbury kitchen – a new kitchen and dining facility to provide meals to 1050 pupils.

In September 2013 the Deputy Prime Minister, Nick Clegg, announced; every child in reception, year 1 and year 2 in state-funded schools will receive a free school lunch from September 2014. SCS identified eight schools, including Hazelbury Infant school that needed urgent work to meet the requirements of the Universal Infant Free School Meals. Hazelbury Junior was included in the kitchen programme because of the risk of closure due equipment failure and issues in meal production. Both schools had works to school halls and

adjoining accommodation to provide two new kitchens and dining facilities, works completed September 2014.

Although the school is meeting its obligations by providing infant free school meals, the volume of pupils and additional lunch sittings is impacting on both the Infant and Junior halls availability for curriculum activities, the reason is the time taken to clean the halls after lunch breaks. Therefore the free school meals delivery is restricting the delivery of PE and other subjects such as drama, as the halls have limited availability due to dining and cleaning.

The proposal is to undertake a feasibility study to identify a solution that allows both schools to manage dining without impacting on curriculum delivery.

The initial project allocation of £1.5 million is to allow significant works to be undertaken once the findings of the feasibility study is known. There is a risk that the actual work budgets will exceed the initial project estimates. In this eventuality a further report will be brought forward identifying the final project budget and funding sources.

f) SEP funding support

To meet the urgent needs in demand for places it has been necessary to establish temporary primary classes at Bishop Stopford Secondary school. This situation has arisen due to the delays in the delivery of the proposed Chase Farm primary school as part of Chase Farm Hospital development. It is proposed that the unforeseen additional cost of providing temporary primary classes at Bishop Stopford Secondary school and other SEP commitments are met from the 2015/16 Maintenance Grant allocations for Enfield, to reduce the impact on the Council's General Resources.

The project allocation of £960k to the providing of temporary primary classes at Bishop Stopford Secondary school and other SEP commitments. There is a risk that the actual work budgets will exceed the initial project estimates. In this eventuality the overall budget allocation will be capped and works revised to maintain the budget allocation.

- 4.2 There is a risk that the DfE may revise the indicative grants for 2016/17 and 2017/18 downwards. In this eventually the identified PSBP2 priorities, Broomfield and West Lea, will be progressed as the budgets and works identified in section 4.1. The remaining schools proposals identified in section 4.1 will be reprogrammed for future SCS capital programmes.

5 ALTERNATIVE OPTIONS CONSIDERED

- 5.1. In considering potential bids, the Schools and Children's Services Asset Management Unit reviewed all unresourced Technical Priority 2 schemes identified in condition surveys. As the value of schemes exceeded the resources available, it was necessary to prioritise certain categories of schemes and defer proposals having lesser technical priority.

6. REASONS FOR RECOMMENDATIONS

- 6.1. The recommendations have been made to enable work to be commissioned on condition works identified in section 4.1.

7. COMMENTS OF THE DIRECTOR OF FINANCE CORPORATE RESOURCES AND CUSTOMER SERVICE AND OTHER DEPARTMENTS

7.1. Financial Implications

The funding for this additional programme of works will entirely come from the Department for Education Maintenance grant, which is expected to be allocated during 2016/17 and 2017/18. A DfE announcement is expected soon to confirm the indicative allocation of £24.2m. Until the £24.1m or a different allocation is confirmed no projects will be allowed to commence. The purpose of this report is to allow for the early planning and feasibilities to commence in advance of an announcement.

Any reduction in the indicative grant funding will require a review of the programme.

The proposed phasing and costs of the planned works are shown in the appendix.

7.1.1. VAT Implications

There are provisions, under S33 of VAT Act 1994, for the Council to recover input VAT incurred in the discharge of its responsibility for the supply of statutory primary and secondary education. The main conditions for recovery are that the Council must contract for the works, receive the supply, receive a VAT invoice in its name and pay with its own funds. Input VAT incurred on capital expenditure at Council Maintained schools and foundations schools could be recovered if these conditions are satisfied; however, there are stricter rules for the recovery of input VAT on Capital expenditure at Voluntary Aided schools and any capital project at these schools should be reviewed individually on a case-by case basis.

7.2. Legal Implications

- 7.2.1 The proposals have been lodged as a Key Decision through the Council's democratic process since the proposed capital expenditure will exceed £250,000.

- 7.2.2 The Council has the general power of competence under section 1(1) of the localism Act 2011 to do anything that individuals generally may generally do provided it is not prohibited by legislation. There is no express prohibition, restriction or limitation contained in a statute against use of the power in this way.

7.2.3 The documentation governing the terms on which the goods, works and services are to be provided must be in a form approved by the Assistant Director of Legal Services.

7.2.4 All goods, services and works commissioned (including the procurement and award of contract) under this report must be in accordance with EU and UK public procurement law, and the Council's Constitution (in particular, the Contract Procedure Rules)..

7.3. Property Implications

7.3.1. The implementation of the Condition Programme will extend the life of school buildings and provide a safe and suitable learning environment for pupils.

7.3.2 Under the requirements of the Regulatory Reform Fire Safety order (RRFSO) 2005, the responsible person for the premises must ensure that a fire safety risk assessment is completed for the building and kept under review. The results of the assessment should be made available to staff and others working in the building.

7.4 Procurement Implications

7.4.1 All procurements will be carried out in accordance with the Council's Contract Procedure Rules (CPRs). Any contracts over £1m will be subject to scrutiny and approval by the Strategic Procurement Board in compliance with the CPRs.

8. KEY RISKS

8.1. Unless the Council is able to resume a comprehensive condition programme, there will be a serious risk of building closures due to failure of structure, electrical services or heating plant. Health and safety issues will also arise without a significant investment in fire safety improvements.

8.2. There is a risk that the DfE may revise the indicative grants for 2016/17 and 2017/18 downwards. In this eventually the identified PSBP2 priorities, Broomfield and West Lea, will be progressed as the budgets and works identified in section 4.1. The remaining schools proposals identified in section 4.1 will be reprogrammed for future SCS capital programmes.

9. IMPACT ON COUNCIL PRIORITIES

9.1. Fairness for All

9.1.1. This proposal will assist the Authority in meeting its objective of providing high quality schools and improved educational attainment for all children and young people by ensuring that pupils and staff can be accommodated in buildings that are in safe and suitable condition.

9.2. Growth and Sustainability

9.2.1. The proposed works will extend the life of school buildings and lead to savings on maintenance and energy costs.

9.3. Strong Communities

9.3.1. The proposed programme will ensure school buildings are maintained satisfactorily for pupils and users from the local community.

10. EQUALITIES IMPACT IMPLICATIONS

10.1 An Equality Impact Assessment has been carried out. A strategy has been developed to ensure that there are sufficient pupil places across the Borough to meet demand, that these places are not discriminatory and to ensure that all children have access to quality education.

11. PERFORMANCE MANAGEMENT IMPLICATIONS

11.1. Unless circumstances dictate otherwise, the various works will be procured in full compliance with the Council's Contract Procedure Rules and competitive quotations or tenders invited from contractors on the Council's Approved List to ensure best value for money.

12. PUBLIC HEALTH IMPLICATIONS

12.1. There are no public health implications.

13. HEALTH AND SAFETY IMPLICATIONS

13.1. The works concerned will be undertaken in full accordance with Health and Safety and CDM Regulations.

Background Papers

None

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:
Interim Director of Children's
Services

Agenda – Part: 1	Item:
Subject: St. John's CE Primary School: Targeted Basic Need: Building works required to enable the School to increase its Standard Number from 13 to 15. Tender Acceptance Report.	
Ward: Chase Key Decision Reference: KD 4118	

Cabinet Members consulted: Councillor Ayfer Orhan - Cabinet Member for Education, Children's Services & Protection

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1. EXECUTIVE SUMMARY

- 1.1. This report provides details of the proposed building works (the "Works") at St. John's CE Primary School (the "School"), Clay Hill, Enfield to provide space for an additional 14 primary age pupils (the "scheme") as part of Enfield's Targeted Basic Need ("TBN") programme from 1st September 2014 onwards and seeks the release of TBN Capital Fund 2015 grant funding together with other capital funding to put towards the cost of the Scheme.
- 1.2. Procurement for the Scheme was undertaken on behalf of Enfield Council by Wilby & Burnett LLP acting on behalf of the School and the London Diocesan Board for Schools ("LDBS") and they adhere to the National Building Specification (NBS) Guide to Tendering for Construction Projects. Four contractors were invited to submit tenders for the Scheme. It is the recommendation of Wilby & Burnett LLP that the lowest tender received from Contractor "A" be accepted. Further details are provided in the Part 2 Report.

2. RECOMMENDATIONS

- 2.1. That the Cabinet Member for Education, Children's Services & Protection and the Interim Director of Children's Services:
 - 2.1.1. note the contents of this report;
 - 2.1.2. note that the School Governing Body accepts the tender from Contractor "A" to carry out the Works at the School with professional and technical expenses, loose furniture & equipment and VAT, details provided in the Part 2 report;
 - 2.1.3. authorise the Council to enter into a formal funding agreement with the London Diocesan Board for Schools ("LDBS") as more particularly detailed in Part 2 of this Report;
 - 2.1.4. authorise expenditure of an additional sum (more particularly detailed in Part 2 of this Report) to be put towards the cost of loose furniture and equipment, not included within the build contract, in direct liaison with the School.

3. BACKGROUND

- 3.1. Report No. 15 presented to Cabinet on 23 July 2014 (KD 3943) for the establishment of the Schools Expansion Programme ("SEP") identified some pressure on capacity in the North Central pupil place planning area from September 2017 onwards and noted that feasibility work was being undertaken to investigate the possible expansion of the School from 0.5 to 1.0 Form of Entry ("FE"), together with possible expansion of Chase Side Primary and Chace Community Schools.
- 3.2. However, after detailed feasibility work, a decision was taken by the Primary Expansion Programme 2 Core Group to abort the above expansion scheme as it was not cost effective.
- 3.3. In discussion and agreement with the School Governors and London Diocesan Board for Schools (the "LDBS"), a reduced TBN capital funding bid was submitted and funding allocation subsequently approved by the Education Funding Agency ("EFA") on 14 January 2015 for an alternative scheme to increase the School's standard number from 13 to 15. Funding of £135,786-00 (based on £9,699 per pupil x 14 additional pupils) was subsequently allocated to this reduced scheme.
- 3.4. An original condition of this grant funding was that works must be undertaken and grant funding spent by 31 August 2015. However, due to delays in securing planning approval, the EFA approved on 17 August 2015 an extension to this deadline of 31 March 2016 which is achievable.

3.5. Publication of a Statutory Notice for the increase in primary pupil places is not required for this scheme as it does not:

- increase the capacity of the school by more than 30 pupils (in this case only 14 additional places are being provided)

or

- increase the capacity of the school by 25% or 200 pupils whichever is the lesser (in this case 25% of 91 pupils would be 22.75 pupils)

4. PROPOSALS

- 4.1. After detailed consultation, a design has been agreed with the Governing Body and LDBS involving part demolition and re-build of an existing undersized classroom at the School, in order that it can accommodate 30 pupils (i.e. two year groups of 15 pupils per year group) together with associated works.
- 4.2. The School is located within a Conservation/Green Belt area and, after consultation with the Conservation Advisory Group and revisions to the original scheme, planning permission for the revised scheme was granted on 25th August 2015. However, it should be noted that additional costs have been incurred as a result of detailed planning conditions.
- 4.3. As this is a Voluntary-Aided school, procurement for this work has been undertaken by the LDBS on behalf of the School Governors and Enfield Council. The tenders were obtained in accordance with the 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". A separate Part 2 report gives full details of the tenders that were submitted.
- 4.4. Wilby & Burnett LLP (consultants) act on behalf of the LDBS and School Governors for this contract and they adhere to the National Building Specification ("NBS") Guide to Tendering for Construction Projects. A Single Stage Tender process was used.
- 4.5. Tender documents were issued to 4 selected contractors in electronic form and hard copy on Monday 13th October 2015 for a tender period of 4 weeks. The tender return date being no later than noon, Wednesday 11th November 2015.
- 4.6. The scheme has been competitively tendered to test the market. Of the three tenders submitted, all are considered by Wilby & Burnett LLP to be bona-fide and competitive. The judgement of the LDBS and Wilby & Burnett LLP is that the tender submitted by Contractor "A" is considered to be the most economically advantageous tender. Further details of the tenders received are provided in the Part 2 Report.

- 4.7. As a result of a satisfactory financial check by Wilby & Burnett LLP, the LDBS and formal agreement by the Governing Body, it is proposed that Contractor "A" will be appointed.
- 4.8. The School Governing Body will enter into a contract with Contractor "A". The LDBS will act as banker for the Scheme. TBN grant funding will be paid by Enfield Council to the LDBS upon receipt from the EFA. This will require a funding agreement in writing between Enfield Council and the LDBS for the release of this element of funding towards the cost of the overall scheme.
- 4.9. The professional costs (excluding surveys, planning fees, building control fees etc.) have been calculated on a percentage of the construction costs in accordance with LDBS policy, in this case 12.5%.
- 4.10. As this is a Voluntary Aided School, EFA approval is also required to the allocation of Locally Controlled Voluntary Aided Programme ("LCVAP") grant funding to this scheme and this is currently in the process of being obtained prior to works proceeding.
- 4.11. It is currently proposed that building work will start on site on Monday 21st December 2015, subject to appropriate approvals and contract of works being entered into between the School Governing Body and Contractor "A" with proposed completion by Friday 1st July 2016.
- 4.12. It is proposed that any remaining underspend on the expansion schemes at St. Matthew's Edmonton Annex, Dysons Road, N18 and St. Michael's CE Primary School, Enfield, together with any underspend on the Scheme at the School once completed, will go back into the SEP funding pot for use at other schools.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1. There are no alternative options. The TBN funding is earmarked for use at the School. If the new classroom is not constructed, the EFA could ask for the funding to be returned to them and Enfield Council will not be in a position to fulfil the statutory requirement to continue to admit 15 primary age pupils each year at the School from September 2016 onwards.
- 5.2. The Governing Body has already admitted 2 additional Reception age pupils in September 2014 and again in September 2015 in good faith in order to comply with the original conditions of the allocation of TBN grant funding from the EFA on the basis that the work required to extend one under-sized classroom at the school would be completed. Failure to extend this classroom would result in over-crowding and have a detrimental effect on existing pupils.

6. REASONS FOR RECOMMENDATIONS

- 6.1. The decision is necessary to provide authority for the release of TBN funds to the LDBS. The LDBS fully supports this project and is acting as Banker on the scheme and will reimburse the contractor as work progresses on the new classroom. This will enable grant funding to be spent by the required deadline of 31 March 2016 under the Terms and Conditions of the TBN grant funding.

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. Payment of the TBN capital grant was received from the EFA on 20 March 2015 and it will be forwarded to the LDBS once a funding agreement has been completed.
- 7.1.3. The balance of funding will be made from underspends on the original budget towards the cost of the original feasibility study at St. John's CE Primary School and capital expansion schemes at St. Matthew's Edmonton Annex, Dysons Road, N18 and St. Michael's CE Primary School as detailed above.
- 7.1.4. The cost of the Scheme will be closely monitored to keep within the budget available. However, the total sum of TBN grant funding will be utilised as a first priority towards the cost of this Scheme to meet the 31st March 2016 spend deadline.

7.1.5. VAT Implications

The Council, as the Local Education Authority, is normally able to recover the VAT that it 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, to the playing fields and buildings thereon (related to their use) and any expenditure that does not exceed £10,000 in total. The Governing Body are responsible for all other capital expenditure and attributable VAT is not recoverable by the council unless the council has spent its own funds, contracted directly to the supplier and received a VAT invoice in its name.

St John's is a Voluntary Aided School and procurement is being undertaken by the LDBS, therefore the Council should not recover VAT on this project. The Diocese/ Governing body will not be able to recover VAT if it is not VAT registered therefore any contribution by the Council to the cost of this 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.

There are no partial exemption implications because the council's contribution (including any provision for VAT) will be Outside the Scope of VAT²

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-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. Section 111 of the Local Government Act 1972 ("LGA") gives a local authority power to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of its functions and the Localism Act 2011 provides the Council power to do anything that individuals generally may do provided it is not prohibited by legislation and subject to Public Law principles. In addition, section 112 of the LGA permits the appointment of such officers that the Council deems necessary for the discharge of its functions. The proposals set out in this report are consistent with this power.

7.2.2. The contents of this report constitute a Key Decision as the proposals will lead to capital expenditure (including professional and technical expenses) exceeding £250,000. This item has been included in the Forward Plan (ref. KD 4118). Once approved, the decision to proceed will be subject to the usual call-in.

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. All legal agreements arising from the matters described in this Report must be approved by the Assistant Director of Legal and Governance Services in accordance with section 8 of Enfield Council's Contract Procedure Rules ("CPR's").
- 7.2.6. The Council must comply with any grant conditions imposed by the DfE/EFA in return for providing funding to the LDBS. In making grants, the Council must be mindful of the rules relating to State Aid.

7.3. Property Implications

- 7.3.1. The proposed project will ensure that sufficient and suitable accommodation is available to enable St. John's CE Primary School, Enfield to continue to provide 2 additional primary pupil places from 1st September 2014 onwards to meet Department for Education statutory requirements/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 the School will not be in a position to provide the additional places required from 1st September 2016 onwards which is a requirement under the Terms and Conditions of the TBN grant allocation.
- 8.2. In addition, and under the Terms and Conditions of the TBN grant allocation, if work to the value of the TBN grant funding is not completed by the 31st March 2016 deadline, the EFA could reclaim the TBN funding already paid.
- 8.3. The procurement process has tested the contractors' abilities to provide the new facilities in the timescale required. Programme and project milestones have been clearly identified and progress will be closely monitored to ensure that, if any problems develop during the construction period, contingency plans are in place to minimise disruption to the school.
- 8.4. Costs will be managed through the project and programme governance arrangements have already been put in place by the LDBS.
- 8.5. A Risk Register will be set up to identify and manage project risks. Key Risks will be refreshed as the project proceeds.

9. IMPACT ON COUNCIL PRIORITIES

- 9.1. **Fairness for All**

9.1.1. This proposal will result in the provision of 14 additional primary places over 7 years are provided at St. John's CE Primary School from September 2014 onwards.

9.1.2. This proposal will assist the Authority in meeting its objective of providing high quality schools and improved educational attainment for all children and young people by ensuring that pupils and staff can be accommodated in buildings that are in a safe and suitable condition.

9.2. Growth and Sustainability

9.2.1. Numerous items have been included within the scheme so that it will comply with current Building Regulations as far as sustainability is concerned. These items are spread across subheadings including pollution, water, materials, management, health & wellbeing and energy.

9.2.2. The proposed works will extend the life of the school building and lead to savings on maintenance and energy costs.

9.3. Strong Communities

9.3.1. Further improvement and investment in school buildings will provide improved facilities for existing pupils in addition to greater opportunities for enhanced community use.

10. EQUALITIES IMPACT IMPLICATIONS

10.1. This development will enable St. John's CE Primary School, Enfield to provide additional pupil places in purpose built facilities thereby assisting this Authority in meeting its statutory requirement to provide sufficient places in the North Central planning area.

10.2. An Equality Impact Assessment has been carried out. A strategy has been developed to ensure that there are sufficient pupil places across the Borough to meet demand, that these places are not discriminatory and to ensure that all children have access to quality education.

11. PERFORMANCE MANAGEMENT IMPLICATIONS

11.1. The provision of the new facilities at St. John's CE Primary School, as identified in this report, will enable the Authority to meet its statutory duty to ensure the availability of additional primary places in an area of need.

11.2. 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 2015 Regulations will apply and the requisite notices and Health and Safety information will be issued to the contractor by Wilby & Burnett LLP. As the client, St. John's CE Primary School Governing Body will be responsible for appointing the Principle Designer (Wilby & Burnett LLP) and Principle Contractor (Contractor "A") on this scheme in liaison with the LDBS.
- 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. This scheme will extend an existing undersized classroom, which together with other internal alterations at the school, will impact on the health and well-being of the pupils and staff.

Background Papers

- None

