

Cabinet Members' Decisions


made in May 2014

Date Issued: 27 May 2014

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 the low tax borough	London Borough of Hammersmith & Fulham CABINET MEMBER DECISION MAY 2014
WILLIAM MORRIS SIXTH FORM SCHOOL - CONVERSION TO ACADEMY STATUS	
Report of the Cabinet member for Education	
Open Report	
Classification - For Decision Key Decision: No	
Wards Affected: Fulham Reach	
Accountable Executive Director: Andrew Christie, Strategic Executive Director of Children's Services	
Report Author: Alan Wharton, Tri-Borough Head of Asset Strategy (Schools and Children's Services)	Contact Details: Tel: 020 7 641 2911 E-mail: awharton@westminster.gov.uk

AUTHORISED BY:

The Cabinet Member has signed this report.

DATE: 21 May 2014.....

1. EXECUTIVE SUMMARY

- 1.1 In line with the delegated authority approved by Cabinet on 5 March 2012, the Cabinet Member for Education in consultation with the Executive Director of Children's Services has the power to approve the following recommendations to enable the conversion of William Morris Sixth Form School to become an academy.

2. RECOMMENDATIONS

- 2.1 To note that the grant of a 125 years lease to William Morris Sixth Form Academy from 1 July 2014 is authorised under the Academies Act 2010.

- 2.2 To note that the Council will enter into a Commercial Transfer Agreement transferring the school's assets, contracts and staff to William Morris Sixth Form Academy.
- 2.3 To note that recommendations 2.1 and 2.2 cannot be acted upon until the formal funding agreement is in place between the Academy Trust and the Secretary of State.
- 2.3 That officers be authorised to enter into negotiations with the new Academy to lease the St Dunstan's Clinic site to enable the new Academy to provide additional SEN places.

3. REASONS FOR DECISION

- 3.1. The decision is required to comply with the procedures necessary to give effect to conversion to academy status.

4. INTRODUCTION AND BACKGROUND

- 4.1 As part of the Government drive to raise school standards and further empower schools to be more in control of their delivery, further encouragement has been given to schools to convert to academy status. This has also included a simplification of the process and a generic standardisation of the required documentation to enable both existing trustees (usually local authorities or dioceses) and local authorities as the current funding bodies to effect the necessary change from maintained schools to academies.
- 4.2 This standard documentation is the end of a process that commenced when the schools individually registered their interest in considering academy status with the Secretary of State and then underwent a series of steps including broad stakeholder consultation and consideration of this by the governing body before making their final applications to the Secretary of State.
- 4.3 Once the Secretary of State has considered their requests and approved their conversion to academy status, then the following aspects are required before the school can formally convert:
- a funding agreement is approved between the Secretary of State and the academy
 - to enable the Secretary of State to enter into a funding agreement, the academy must have entered into a long term (125 years) lease with academy
 - to enable the converting academy to deliver continuous education the existing staff are TUPE'd to the new academy and relevant

contracts and assets are novated across under the terms of a commercial transfer agreement.

4.4 The latter action involves the local authority as a co-signatory.

5. PROPOSAL AND ISSUES

- 5.1 The Council proposes to grant a 125 year lease from 1 July 2014. This will broadly follow the DfE form of lease, subject to amendments similar to those agreed with other academies to comply with the local authority's requirements relating to permitted use, maintenance and repair, and insurance.
- 5.2 The School wishes to make additional provision for Special Educational Needs, which could be achieved if the adjacent St Dunstan's Clinic became available. The Council is keen to work with the School to achieve this objective. The clinic is owned by the local authority but is occupied by the NHS under 'minor user rights', which enables the NHS to continue in occupation whilst the original services are provided. The NHS has stated that it intends to re-locate to the new White City Collaborative Care Centre in about July 2014 and vacate the premises.
- 5.3 The School has commissioned feasibility studies into the opportunities presented by the building, which could raise capital contributions towards the cost.

Option 1

Provides the required SEN accommodation by remodelling the interior of the existing clinic building and increasing the area with a series of extensions to the front, rear and eastern side of the building. This will enable the creation of 3 No SEN dedicated classrooms on the ground floor and a new first floor to provide the much needed Personal and Social Development Room and Life Skills Kitchen. The pedestrian site entrance within the boundary wall is widened and the space between the NHS Clinic and the existing Student Services House is in-filled with a single storey lightweight, transparent glass entrance lobby to provide a welcoming site entrance linking the SEN teaching block with a new reception. This is the preferred option of William Morris Sixth Form as it meets the accommodation requirements set out in the brief, and retains the streetscape appearance of the existing Clinic building.

Option 2

This option retains the shell of the existing clinic (i.e. no rear extension) and is just single storey therefore accommodation is limited. To mitigate the limited space within the clinic building, the Student Support Centre Building will need to be remodelled to accommodate the group rooms, office and reception on the ground floor with the first floor of the house to be used as Personal Development Space for the SEN students. A new external lift is required to the existing Block I building

to provide disabled users with access to the first floor. This proposed option does not provide sufficient spaces for SEN student Development or Staff Support Services both in terms of usable area and key adjacencies. There is also no space available for a Life Skills Kitchen.

Option 3

Option 3 is similar to option 2 with the addition of a 3.5m deep single storey extension to the rear of the existing clinic building. The extension provides additional accommodation space which enables the group room areas to be introduced into the main SEN building. This option does not provide suitable PSD and staff support spaces including Life Skills Kitchen.

Option 4

This mixed use option would involve the demolition of the existing clinic building which will be replaced by a new two-storey building of a similar footprint to option 1. The ground floor will be allocated for the William Morris Sixth Form SEN provision whilst the first floor would house 4 No 2 bedroom apartments. The existing site boundary wall will be retained and incorporated within the proposal. Whilst the residential units would provide the school with a funding / revenue stream from sale/rental of units, this benefit is offset by the loss of suitable PSD and staff support spaces including Life Skills Kitchen. In addition, it is believed, on the basis of informal planning advice, that the Planning Authority would oppose a change of use on the site and the impact on the street scene.

- 5.4 The transfer of the staff, assets and contracts is dealt with by way of a commercial transfer agreement which sets out the staff, contracts and assets to be transferred as well as the respective rights, obligations and liabilities of the parties. There is a model form of contract provided by the DfE upon which the commercial transfer agreement between the Council, School and Academy will be based.

6. OPTIONS AND ANALYSIS OF OPTIONS

- 6.1 There are no alternative options to consider in this case.

7. CONSULTATION

- 7.1 There is no consultation required in this case.

8. EQUALITY IMPLICATIONS

- 8.1. There are no equality implications to consider in this case.

9. LEGAL IMPLICATIONS

- 9.1 Under the Academies Act 2010 (the “Academies Act”) the Secretary of State for Education may enter into Academy funding agreement with an Academy Trust for establishment of an independent school/academy. Local authorities are required to comply with such Secretary of State decision to transfer land (either the freehold or by way of a 125 year lease) and assets to the Academy Trust. Further, the Academies Act gives the Secretary of State powers to make transfer schemes relating to land, property, rights or liabilities to the Academy where agreement cannot be reached between the Local Authority and the Academy Trust.
- 9.2 The Secretary of State for Education pursuant to his powers conferred under the Academies Act had exercised powers to convert to Academy status. The Academies Act provides that on the conversion date (1 July 2014) the school closes and opens as a sponsored academy under the academy arrangements under section 1 of the Academies Act.
- 9.3 Under the statutory provisions of the Academies Act, as the Council holds the school land and buildings as freeholder, it is required to negotiate and grant a lease of the land and buildings where it is used wholly or mainly for the purposes of the school. The Council will therefore, grant a lease of the land and buildings occupied by the school to the Academy Trust for a term of 125 years at a peppercorn rent. The principal terms of the academy lease, which is recommended by the Department for Education together with other terms or variations of the principal terms as deemed appropriate by the Council and the Academy Trust will be agreed and incorporated into the lease.
- 9.4 Non-compliance would prompt the issue of a Direction and the required decisions would be taken by the Secretary of State for Education.
- 9.5 The DfE has drawn up a model form of commercial transfer agreement which sets out the terms under which the assets, contracts and staff are transferred from the school or local authority to the new academy.
- 9.6 Legal Services will work with officers to finalise and agree the lease and commercial transfer agreement.
- 9.7 Implications verified/completed by: (Name Rachel Silverstone, Solicitor, (Property) 0208 753 2210 and Kar-Yee Chan, Solicitor (Contracts), 020 8753 2772.

10. FINANCIAL AND RESOURCES IMPLICATIONS

- 10.1. The Director of Finance has been consulted during the preparation of the final documentation for lease and both the commercial transfer agreements and notes that these decisions are required to enable the conversion of academies and are based on model national documentation.
- 10.2. In accordance with guidance for maintained community schools transferring to Academy status, the land will be leased to the academy sponsor on a 125 year (operating) lease for a peppercorn rent. As an operating lease, the Council will continue to be the freeholder and the asset will continue to be recognised on the Council's balance sheet.
- 10.3. Implications verified/completed by: Dave McNamara (Director of Finance and Resources, Children's Services), tel: 020 8753 3404.

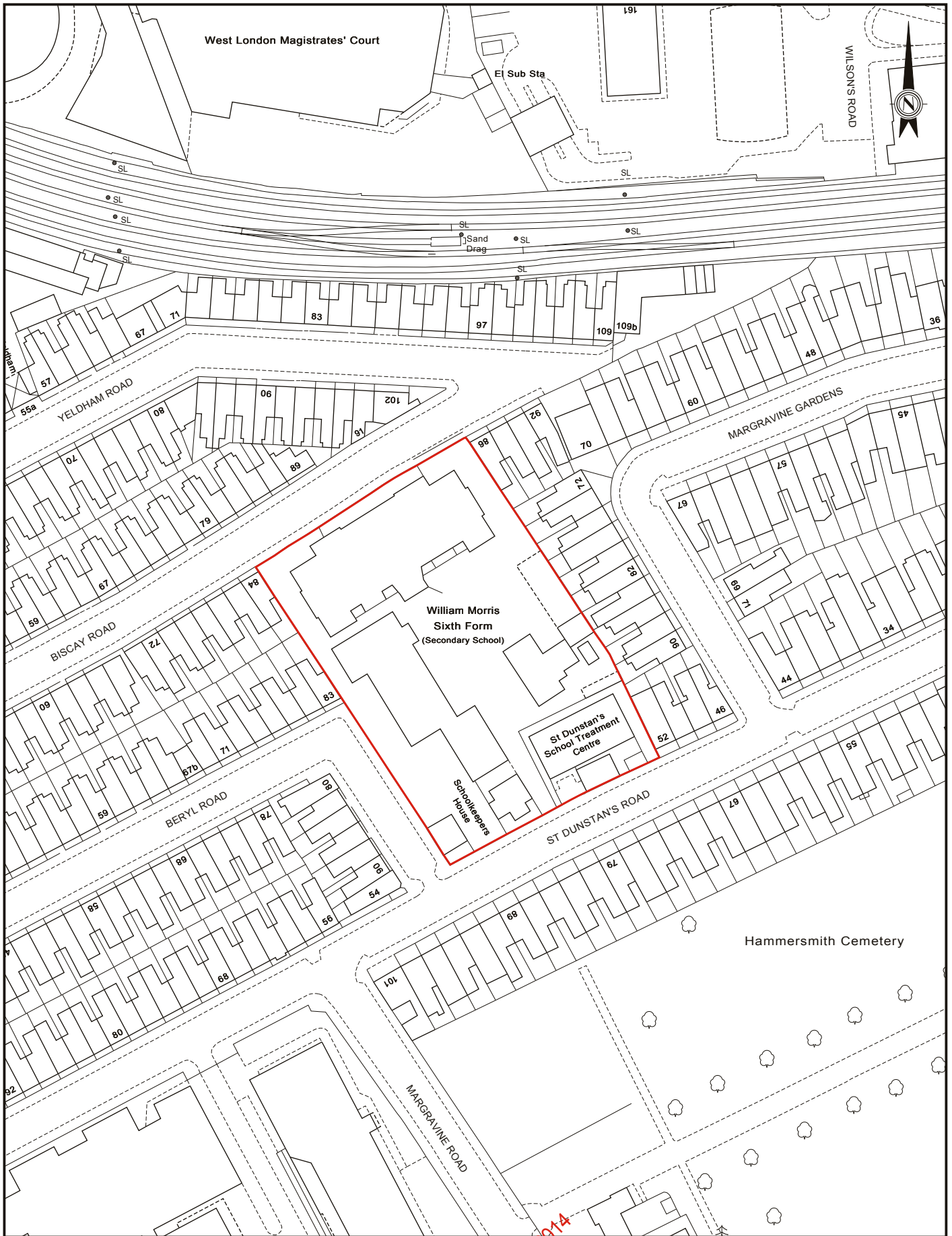
LOCAL GOVERNMENT ACT 2000

LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Cabinet Report 5 March 2012 (School Organisation Report)		

LIST OF APPENDICES:

1. Proposed site plan of William Morris Sixth Form School.



HAMMERSMITH AND FULHAM COUNCIL
 Transport & Technical Services
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PROJECT
**WILLIAM MORRIS SIXTH FORM
 ST DUNSTAN'S ROAD**
LONDON W6 8RB

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NOTES
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DRAWN & UNCHECKED 6/05/2014



London Borough of Hammersmith & Fulham

Cabinet

Cabinet Members' Decision

EXTENSION OF APPOINTMENTS OF COUNCIL REPRESENTATIVE TO VARIOUS OUTSIDE BODIES	
Report of the Leader, Deputy Leader, Cabinet Member for Transport and Technical Services and Cabinet Member for Education	
Open Report	
Classification: For Decision	
Key Decision: No	
Wards Affected: All	
Accountable Executive Director: Jane West, Executive Director of Finance and Corporate Governance	
Report Author: Kayode Adewumi - Head of Governance and Scrutiny	Contact Details: Tel: 0208753 2499 E-mail: kayode.adewumi@lbhf.gov.uk

AUTHORISED BY:

The Cabinet Member has signed this report.

DATE: 21 May 2014.....

1. EXECUTIVE SUMMARY

- 1.1. This report seeks a decision to extend the appointment of Council representatives to various outside bodies for the period up to 31 July 2014.

2. RECOMMENDATION

- 2.1. To extend the appointment of the Council representatives on various Outside Bodies listed in Appendix 1 to this report up to 31 July 2014.

3. REASONS FOR DECISION

- 3.1. This extension is to allow the organisations to run smoothly while the administration makes new appointments in the early part of the new municipal year.

4. INTRODUCTION AND BACKGROUND

- 4.1. The Council appoints councillors and members of the local community on to the management committees of outside organisation bodies. Due to the Annual Council meeting date being moved from 28 May to 16 June 2014 because of the forthcoming Local and European elections on 22 May 2014, this report is seeking authority to extend the appointment of the Council representatives on the outside bodies listed in Appendix 1 of the report until 31 July 2014. The extension request is due to the change of Council meeting date and the expiry of some appointments immediately after the elections. Cabinet Members would not have taken up their positions by the time some of these appointments would have ended, preventing new appointments to be made, and causing considerable governance issues for the institutions.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1. Not applicable.

6. LEGAL IMPLICATIONS

- 6.1. Under the Council's Constitution, Executive Members: Responsibilities and Portfolios – the Leader, Deputy Leader, Cabinet Member for Transport and Technical Services and Cabinet Member for Education (specifically the section 'Scope of portfolio' item 1.3) – each Cabinet Member has the responsibility for "Appointing or nominating and where appropriate removing the Authority's representatives on appropriate organisations that fall within this portfolio". The outside bodies set out in the Appendix are appropriate organisations falling within the scope of the Cabinet Members' portfolios.
- 6.2. Implications verified/completed by: Tasnim Shawkat, Bi-Borough Director of Law. Tel 020 8753 2700.

7. FINANCIAL AND RESOURCES IMPLICATIONS


- 7.1. There are no financial implications arising from this proposal.
- 7.2. Implications verified/completed by: Kayode Adewumi, Committee Coordinator.
Tel.0208 753 2499.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
1	Council Constitution		

Appendix 1

Outside Body	Current Appointments	Date Of Expiry
Riverside Trust Limited	Councillor Rachel Ford (C)	31/07/14
	Councillor Peter Graham(C)	31/07/14
	Councillor Andrew Brown (C)	31/07/14
Fulham Palace Trust	<ul style="list-style-type: none"> • Cllr Nick Botterill (C) • Cllr Frances Stainton (C) • Cllr Jane Law (C) • Cllr Greg Smith (C) (Ex Officio) 	31/07/14
Western Riverside Waste Authority	Councillor Greg Smith [C]	31/07/14
		31/07/14
SACRE (Standing Advisory Committee On Religious Education)	Councillor Harry Phibbs (C);	31/07/14
Schools Admission Forum	Councillor Donald Johnson [C]	31/07/14
	Councillor Caroline Needham (L)	31/07/14
LBHF Fostering Panel	Councillor Adronie Alford (C)	31/07/14
Pocklington Apprenticeship Trust	Mary Church	31/07/14
Volunteer Centre	Councillor Matt Thorley	31/07/14
London Heliport Consultative Committee	Councillor Victoria Brocklebank-Fowler (Councillor Representative)	31/07/14
Earls Court and Olympia Charitable Trust	Councillor Mark Loveday (C.)	31/07/14
	Councillor Lucy Ivimy (C.)	31/07/14
Greater London Enterprise	Councillor Mark Loveday (C)	31/07/14

 the low tax borough	London Borough of Hammersmith & Fulham CABINET MEMBER DECISION 21st May 2014
DELIVERING THE SCHOOLS CAPITAL PROGRAMME: JOHN BETTS, PARAY HOUSE, POPE JOHN, AND WOOD LANE SPECIAL SCHOOL	
Report of the Cabinet Member for Education	
Open Report	
Classification: For Decision	
Key Decision: Yes	
Wards Affected: All	
Accountable Executive Director Andrew Christie – Executive Director Children’s Services	
Report Author: Dave McNamara – Tri-borough Director of Finance & Resources (Children’s Services)	Contact Details: Tel: 020 (8753 3404) E-mail: (dave.mcnamara@lbhf.gov.uk)

AUTHORISED BY:

The Cabinet Member has signed this report.

DATE: 21 May 2014.....

1. EXECUTIVE SUMMARY

- 1.1. This report builds on the previous reports set out in the School Organisation Strategy for Hammersmith & Fulham 2012/13. It makes recommendations for the allocation of the contingency established in the April 2014 Cabinet Report and delegated to the Cabinet Member for Education the authority to determine the appropriate use of the contingency fund in support of the schemes approved by Members as part of the Schools’ Capital Programme. It seeks approval to award the contract for works at Normand Croft to facilitate the capital works required at New King’s school, and seeks approval to commission 3BM as the main contractor to deliver the required expansion at Wood Lane Special school.

2. RECOMMENDATIONS

2.1. John Betts

- 2.1.1. Subject to a formal agreement between the council and the school/ John Betts Foundation (St Peter's Hammersmith Schools Foundation) to ensure the continuance of the provision of a bulge class to allocate up to £444,000 (including VAT) for fit-out works to the ground floor of Ravenscourt house to be used for the provision of statutory education purposes.

2.2. New King's & Sullivan (re-location of Paray House from New Kings to Normand Croft)

- 2.2.1. In line with the prior delegation given to waive standing orders, to appoint the Principal Contractor as Shaylor Group Ltd for the remodelling works of the Normand Croft School for the sum of £429,240.

2.3. Wood Lane Special School

- 2.3.1. To appoint 3BM as the Principal Contractor for the expansion of Wood Lane Special School for the sum of £750,000.

2.4. Pope John

- 2.4.1. To approve the allocation of a further £221,000 to fund the additional inflation cost of the contract resulting from delays incurred in resolving complex land title issues.

3. REASONS FOR DECISION

- 3.1. The recommendations listed above will contribute to the Council meeting its identified key educational priorities.

- To meet the Council's statutory responsibility to provide school places to meet demand
- The Schools of Choice agenda for expanding popular schools
- Increase the percentage of resident children choosing the Borough's schools
- The Special Schools Strategy

4. INTRODUCTION AND BACKGROUND

- 4.1. In response to the receipt of additional Basic Need Grant in 2011-12 the Council developed a process to invite bids from schools that addressed the Council's key essential priorities of Schools of Choice. Since that time the Council has continued to use the same process to allocate funds. The total amount of funding within the Schools' Capital Programme is **£109.524m**. In total, £106.124m has already been allocated including establishing a contingency of £742k. This leaves a current balance available for further allocation of £3.4m. This report seeks to allocate funds from the existing contingency rather than by allocating sums from the remaining balance.

5. PROPOSAL AND ISSUES

5.1. **John Betts**

- 5.1.1. John Betts Primary School is a one-form entry primary school that is heavily over-subscribed. The school currently has 240 pupils across 8 classes with a bulge class, who will progress through the school, leaving in 2019.
- 5.1.2. The school accommodation is in 8 classrooms in a Grade II listed Victorian building. The Learning environment is cramped and there is little opportunity for break-out areas for specialist areas, and compromises the school's ability to provide access for children with disabilities.
- 5.1.3. The developers of an adjacent site have offered a ground floor space equivalent to 2 classrooms. This would provide the following benefits:
 - Accessible classrooms to provide flexibility for class with children with severe mobility issues
 - Early years indoor/outdoor education
 - Free up more space for specialist teaching by relocating officeThe newly available space would allow the school to expand into a space that would meet its current needs but would not facilitate a further expansion.
- 5.1.4. The current arrangement with the school would see the bulge class grow out of the school in 2019. The proposal is that in lieu of the funding required to fit-out the new accommodation (£444k) that the school sustain the bulge class arrangements beyond 2019 by taking a new bulge class from 2019.
- 5.1.5. The proposed sum includes a provision for VAT should it not be possible to avoid VAT through the development being zero-rated, or opportunities to reclaim any VAT payable.

5.2. **New King's & Sulivan (re-location of Paray House from New Kings to Normand Croft)**

- 5.2.1. The scope of the works included the works necessary to accommodate Paray House plus additional works required by the school and necessary planned maintenance works.
- 5.2.2. The procurement process commenced on the 8th April 2014 when a notice was posted on the London Tenders Portal (Pro-Contract). The Project Team decided to procure the appointment of the Contractor through a Further Competition process via the Schools and Community Buildings Framework (SCB1 – Workstream 2) managed by the London Housing Consortium (LHC). The development of the design, Specification and Drawings were completed by 3BM, the Education Project Manager partner of LBHF.
- 5.2.3. The 'Invitation to Tender' documents for the Remodelling Scheme Works' were issued to four Companies that are assigned to the SCB1 Workstream 2 on the 8th April 2014 with a tender period of four weeks.

- 5.2.4. The deadline for the return of bids was set at 12 noon on Thursday 8th May 2014. One Bid return was received from the following Company:- Shaylor Group Ltd. In line with the delegation given to waive standing orders, to appoint the Principal Contractor as Shaylor Group Ltd for the remodelling works of the Normand Croft School for the sum of £429,240.
- 5.2.5. Funding for the works are to come from the following sources relating to the nature of the works to be completed:

Work Package	Value (£)	Funding Source
Relocation of Paray House	118,746	CHS Capital Budget
Safeguarding works in relation to NHS drop-in facility	147,287	H&S works element of 2014/15 planned maintenance programme
Reconfiguration of school accommodation	102,781	School contribution
Asbestos Management	60,426	Asbestos management element of 2014/15 planned maintenance programme
TOTAL	429,240	

The contribution for the relocation of Paray House represents an £19k in the estimate reported to Cabinet to be funded from the contingency.

5.3. **Wood Lane Special School**

5.3.1. The Works

5.3.2. The proposed Wood Lane funding allocation will provide additional accommodation required to enable the school to meet the needs of the current roll of 94 pupils in a school designed for 65, and expand further provision to deliver the curriculum in an inclusive and safe environment for teaching and learning.

5.3.3. The Works comprise the proposed extension of the existing school consisting of 4 No. classrooms, redecoration of the existing circulation spaces, and reconfiguration of the teaching kitchen. The Works are split into two Sections with varying completion dates. Section 1 comprises the extension works and Section 2 the circulation redecoration, kitchen reconfiguration. Section 1 works are programmed for completion by 10th October 2014 and Section 2 works by 22nd August 2015.

5.3.4. The all-inclusive project budget set by LBHF of £750,000, includes statutory fees, surveys, professional fees and client contingency. This results in a construction contract value of circa £650,000.

5.3.5. Tender Process

- 5.3.6. In accordance with LBHF procurement requirements and guidelines, the procurement of a main contractor was progressed via list of contractors generated from Constructionline. A list of 20 contractors was generated from Constuctionline from which 3BM contacted contractors from the top of the list down until a tender list of 5 contractors had confirmed that they would respond to the opportunity.
- 5.3.7. Tender documents were issued to the first 5 contractors who confirmed their interest which included:
- 5.3.8. Tender Documents were issued to the above contractors via the London Tenders Portal on 9th April with a specified tender return by 03:00 on 9th May 2014. Following receipt of the tender documents, 2 contractors subsequently confirmed they no longer wished to respond to the tender opportunity due to work load.
- 5.3.9. 2 Tender returns were received in accordance with the instructions to tenderers. A further tender submission was received after the closing deadline and subsequently discounted from the evaluation.
- 5.3.10. The most economically advantageous tender return exceeded the anticipated construction contract value by circa £130,000.
- 5.3.11. Due to the time constraints for completion of the project and the need for LBHF approval for acceptance of tender by the 21st May 2014, there is not sufficient time within the programme to undertake a value engineering exercise via the London Tenders Portal to achieve confirmation of a compliant revised contract value within the approved budget.
- 5.3.12. In addition the alternative option of retendering the works in its entirety to an alternative set of contractors cannot be supported within the programme, and there is no guarantee that with the current volatility of the construction market that the outcome would be more advantageous to LBHF.
- 5.3.13. Consideration was given to other potential solutions to deliver the required scheme within budget.
- 5.3.14. On the basis of the tender returns received and the criticality of delivering the project on programme and to budget, it is recommended that LBHF appoint 3BM Ltd under their existing OJEU compliant appointment to deliver the project for a fixed fee value of £750,000.
- 5.3.15. The appoint of 3BM to deliver this project on a fixed fee basis will deliver value for money to LBHF by transferring procurement risk to 3BM Ltd. In addition 3BM are able to further demonstrate the delivery of value for money to the council by:
1. Working with a supply chain of sub consultants and sub-contractors who have been selected on the basis of their reliability and track record of delivering projects to budget and programme;
 2. Utilising the benefits of the 3BM in house design team during the construction phase;

3. As a strategic partner to the council 3BM have a contractual commitment to protect the interests of the council via their separate service contract;
 4. Commitment to a fixed price for a turnkey project;
- 5.3.16. As part of the process 3BM will need to demonstrate and provide on-going assurance of their supply chain resilience of sub consultants and sub-contractors.

5.4. Pope John

- 5.4.1. To approve the allocation of a further £221,000 to fund the additional inflation cost of the contract resulting from delays incurred in resolving complex land title issues

6. OPTIONS AND ANALYSIS OF OPTIONS

- 6.1. As part of the funding decision making process, projects considered for funding under this draft strategy have been discussed at Cabinet Member briefings, and the schools in question have been visited by Cabinet Members and/or Council officers to appraise the merit of the projects for funding.

7. CONSULTATION

- 7.1. There is no external consultation involved in the allocation of funding to these projects and contract award decisions.

8. EQUALITY IMPLICATIONS

- 8.1. The proposals relating to Sullivan and New King's were part of a comprehensive assessment undertaken as part of the decision-making process in relation to those schools.
- 8.2. All other proposed projects within this report were considered for funding under the Schools Organisation Strategy 2012/13 approved by Cabinet 10th December 2012. As such, these projects are incorporated in the Equality Impact Assessment for that report.
- 8.3. Funding and delivery of the projects proposed within this report, is part of the Councils strategy to deliver its schools of choice agenda. This will have a positive impact on all the residents of Hammersmith and Fulham, with children of school age, as it is an integral part of an all-encompassing strategy for all learners in the borough. The new opportunities that these new and expanded schools will provide will improve the choices for more local children to attend local schools, regardless of race, gender, disability, sexual orientation or religious belief.

9. LEGAL IMPLICATIONS

- 9.1. It is noted that Cabinet on 07 April 2014 delegated approval to the Cabinet Member for Education to award a contract to a contractor to carry out remodelling works at Normand Croft School. The appointment of Shaylor

Group Ltd is in the compliance of the Contract Standing Orders and procurement legislation.

- 9.2. In relation to the proposed appointment of 3BM as the principal contractor for the expansion of Wood Lane Special School, this would be in the compliance of the Contract Standing Orders and procurement legislation as the appointment is covered under the Contract Notice that was published by the Council when creating the employee-led mutual. The reasons for the direct appointment are set out in the body of the report.
- 9.3. Implications completed by: Kar-Yee Chan, Solicitor (Contracts), 020 8753 2772.

10. FINANCIAL AND RESOURCES IMPLICATIONS

- 10.1. The Schools Capital Programme has a complex and diverse set of funding streams as set out in paragraph 4.1 totalling £109.524m(being the total since the inception of the programme in 2011). The previously reported envelope for the Programme was £96.963m. The increase of £11.080m is represented by additional targeted Basic Needs allocations (£1.998m), additional Free School and Academy funding (£9.082m) and the confirmed LA Maintenance grant for 2014/15 (£1.481m). There is no additional call on Council mainstream resource - the increase in the programme is wholly attributable to increased external grant funding.
- 10.2. To date, the Cabinet has allocated a total of £93.116m leaving a balance of £16.408m. The proposed allocation of resources of £13.008m in this report (inclusive of a sum set aside for contingency) would leave a further £3.4m for future allocations.

VAT Implications

- 10.3. Except in special circumstances, the Council is only able to reclaim VAT relating to capital expenditure on Community Schools. Where projects relate to other schools the Council must be mindful of this. With specific regard to Voluntary Aided schools the HMRC have issued revised guidance which will need to be complied with.
- 10.4. In addition, where leases of land and buildings are involved as part of the project, or there are complex streams of funding (for example contributions from schools or third parties), the VAT implications must be explored due to the potential impact on the Council's partial exemption. The potential impact is determined by the nuances of each project and the nature of the consideration and therefore this should be reviewed on a case by case basis.
- 10.5. Comments provided by: Christopher Harris, Head of Corporate Accountancy and Capital, tel 0208 753 6440

11. RISK MANAGEMENT

- 11.1. The Tri-borough Children's Services Department is compliant with the established Tri-borough approach to management of risk and the proposals contribute positively to the Bi-borough Enterprise Wide Risk Register entry number 2, Managing the Business Objectives, ensuring the public's needs and expectations are known and addressed. The department report quarterly on its risks to the Hammersmith and Fulham Business Board and an established process is in place to record and present emerging risks to its senior leadership team. 3BM are responsible to ensure it has an effective risk management system in place for the monitoring and management of the risks associated with the works programme. Procurement risk will be the responsibility of the Children's Services Directorate.
- 11.2. Comments provided by: Michael Sloniowski, Bi-borough Risk Manager 020-8753-2587.

12. PROCUREMENT AND IT STRATEGY IMPLICATIONS

- 12.1 At its 7th April 2014 meeting, Cabinet approved expenditure on a number of capital schemes to improve schools in H&F, and gave approval to delegate contract award on these to the Cabinet Member for Education. The procurement implications of those schemes contained in this Cabinet Member Decision are covered below.

Relocation of Paray House from New Kings to Normand Croft School and appointment of Contractor for wider works at Normand Croft.

- 12.2 7th April 2014 Cabinet delegated approval to award the works needed to both re-locate Paray House School to Normand Croft, and (as part of a wider project) to re-locate a NHS drop-in facility to the same site to the Cabinet Member for Education. The pre-tender estimate given for the re-location of Paray House was £100k; an estimate of the wider works at Normand Croft was estimated to be £300k but did not reflect the full extent of the additional works subsequently built into the works specification.
- 12.3 In line with the Council's Contracts Standing Orders (CSOs), a competition was run for the works required at Normand Croft school, with 5 companies invited to tender from the London Housing Consortium Framework. Unfortunately, only one tender was returned, thus making it difficult to benchmark the value for money of that tender, taking into account quality and cost. However, given the wider dependencies requiring an efficient re-location of Paray House and timely completion of the works needed to enable this, the Director for Procurement & IT Strategy concurs with the recommendation to award the works at Normand Croft to Shaylor Group Ltd.

Wood Lane Special School

- 12.4 Prior delegation of contract award of the works at Wood Lane was approved by Cabinet on 7th April, subject to satisfactory tenders being returned within the pre-tender estimate of £750k.
- 12.5 Competitive tenders were sought from 5 organisations via ConstructionLine in accordance with the Council's CSOs. However, of the 3 tenders that were returned, one was late (and not therefore opened) whilst the most

economically advantageous of the other two was significantly more expensive than the pre-tender estimate and affordability envelope.

- 12.6 Given the return of un-awardable tenders, the Director of Procurement & IT Strategy supports the recommendation to directly commission 3BM to deliver the Wood Lane project for a fixed fee of £750,000. This is a sensible and pragmatic solution to delivering completion of this project within budget in time for the new academic year; and one provided for under the OJEU notice placed by the Council when creating the Employee-Led Mutual. Namely, the commissioning of 3BM by any of the three tri-borough Councils and by any school in the tri-borough area to provide a wide range of construction-related and other support services, either directly or by 3BM sub-contracting to other providers.

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LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	Condition Survey + Targeted need Application	Dave McNamara Ext. 3404	Children's Services