

## LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Cabinet

**Date:** 03/06/2024

**Subject:** Avonmore Primary School – Construction Contractor Procurement Strategy Budget and Request

**Report of:** Councillor Andrew Jones, Cabinet Member for the Economy

**Report author:** Matt Rumble, Strategic Head of Regeneration and Development

**Responsible Director:** Bram Kainth, Strategic Director for the Environment

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### SUMMARY

This report concerns the proposed redevelopment of Avonmore Primary School, Avonmore Road, W14 8RL, (“**Site**”). This report seeks approval for both a capital budget and the works procurement strategy for the principal construction contractor to complete the development.

The proposed scheme (“**Development**”) is on the site of the existing school, and has been co-produced with school governors, the wider school community and local residents. It will provide a modern, fit for purpose one form entry (1FE) Primary School, as well as enhanced nursery and Special Educational Needs and Disabilities (SEND) provision. The site can also accommodate 91 new homes, of which 45 will be provided as affordable housing.

The provision of modern, sustainable, high-end school facilities is vital to the council’s Industrial Strategy; access to excellent educational opportunities for every young person across Hammersmith and Fulham is a fundamental element of building shared prosperity and fostering inclusive growth. Similarly, the proposals ensure that the council continues to maximise opportunities to add to the provision of affordable housing across the borough.

In line with the council’s net-zero ambitions, the school facilities and new homes have been designed to high sustainability and environmental standards which translate into an estimated 75% reduction in operational carbon emissions. This reduction will significantly reduce energy costs for the school and future residents, which is particularly important in view of the current economic climate and ongoing cost of living crisis.

As the scheme progresses, the council will continue to explore further means by which it can deliver more benefits to local residents. Subject to planning conditions and funding availability, it may be possible to convert a greater proportion of the market-sale homes to affordable tenures. Furthermore, as the scheme nears completion, a local lettings policy will be designed to ensure that a broad range of local residents are able to access new homes. The council has designed a specific model of intermediate affordable housing targeted at enabling a greater proportion of key workers to access family-sized affordable housing.

## RECOMMENDATIONS

That Cabinet:

1. Notes that Appendix 2 is not for publication on the basis that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) as set out in paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).
2. Notes that Full Council approval will be sought for a total Development capital budget, including contingencies, to deliver the proposed new one form entry school and associated nursery and SEND facilities and new homes, to be funded through a combination of HRA and GF borrowing, Right to Buy receipts and capital sales receipts from shared ownership and private leasehold sales, as set out in exempt Appendix 2.
3. Authorises the Strategic Head of Regeneration and Development to take decisions on expenditure against this contingency budget subject to the continued viability of the development.
4. Approves the Procurement Strategy, as set out in Appendix 3, to procure a principal construction contractor, using a single stage lump sum JCT standard form of building contract, on a design and build basis, via a two-step mini competition procurement route, using the preferred Notting Hill Genesis Framework Agreement (NHG).

That Full Council:

5. Approves a total Development capital budget, to deliver the proposed new school, nursery and new homes. The budget will be funded through a combination of HRA and GF borrowing, Right to Buy receipts and capital sales receipts from shared ownership and private leasehold sales, as set out in exempt Appendix 2.

**Wards Affected:** Avonmore & Brook Green

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<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
Building shared prosperity	The Development of the Site would bring about measurable local benefits, including realisable benefits during the construction stage where contractors, under the council's procurement policy, will be incentivised to provide Social Value that is aligned to the council's strategies such as the Industrial Strategy.
Creating a compassionate council	The Development helps meet the need to provide a new, modern, fit for purpose 1FE primary school, including enhanced nursery

	<p>and SEND and community facilities.</p> <p>The Development would also help to meet the acute need for affordable housing in the locality as well as the wider borough with the provision of 45 affordable homes. The council will also explore the possibility of converting the market homes to affordable homes subject to Planning permission being secured.</p>
Doing things with residents, not to them	<p>The scheme has been coproduced with the school and involves extensive engagement with residents and the local community at all stages. The construction contractor would be required to work in accordance with council's values of doing things with residents, not to them, throughout all Development stages.</p>
Being ruthlessly financially efficient	<p>Selection of the construction contractor through a robust procurement process would ensure that the project has the best possible chance to deliver a new modern school and facilities, alongside high-quality residential homes that are operationally net-zero carbon, through the use of external funding and incorporation of private sale homes, demonstrating the ruthless financial efficiency of the development while maximising the number and sizes of affordable homes.</p>
Taking pride in H&F	<p>The aim of the Development is to create a lasting and positive legacy through well-designed architecture and amenities while meeting the climate challenge, the community schools programme objectives and the acute need for affordable housing in the borough.</p>
Rising to the challenge of the climate and ecological emergency	<p>The Development would deliver a highly sustainable new school and new homes that achieve high levels of energy efficiency and are fossil-fuel free, and so help create and sustain a low carbon community. The brief to the construction contractor will be to meet the targets set out in the emerging Climate Strategy with the aim to achieve a significant reduction in operational carbon usage, thereby reducing the fuel bills of future residents.</p>

## Financial Impact

The total development budget and its funding resources are set out in exempt Appendix 2.

*Finance implications: completed by Ariana Murdock, Finance Manager (Strategic Capital), 19th March 2024*

*VAT implications: update completed by Joanna Monaghan, Principal Accountant (Taxation), 3rd April 2024*

*Verified by: Sukvinder Kalsi, Strategic Director of Finance, 14<sup>th</sup> March 2024*

## Legal Implications

**The Equality Act 2010** (EqA 2010) created a single general public sector equality duty (PSED) under section 149 of that Act. The PSED applies to public authorities exercising public functions. The PSED requires public authorities to have “due regard” to:

- The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the section 149(1)(a) EqA 2010.
- The need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (section 149(1)(b) EqA 2010)

The duty on public authorities to have “due regard” to the PSED in section 149(1) of the EqA 2010 is more than simply a requirement to have general regard. It is a continuing duty to which all decision-makers must have regard. Proper consideration must be given to the PSED and its requirements. An Equalities Impact Assessment in respect of the proposed development has been carried out and the key findings are summarised at Appendix 5 to this report.

The legal implications in relation the proposed Procurement Strategy are set out in exempt Appendix 3.

*Procurement Implications (Appendix 3): completed by Joginder Bola, Senior Solicitor (Contracts & Procurement), 22nd January 2024*

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## Background Papers Used in Preparing This Report

None

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## DETAILED ANALYSIS

### PROPOSALS AND ANALYSIS OF OPTIONS

#### Strategic context

1. The council’s approach to economic growth is guided by its ambitious Industrial Strategy. Economic growth in Hammersmith and Fulham is rooted in

imaginative placemaking that creates vibrant, sustainable public spaces and strategic development that allows communities to maintain and grow their diversity, cohesion and ambition. Only by having inviting, liveable places, housing and facilities that is accessible to all can the borough realise its ambition of fostering inclusive economic growth.

2. Recognising that the council is well-placed to make a significant direct contribution towards the delivery of high-quality housing, it established the Building Homes and Communities Strategy in 2019. Its overarching aim is to foster diverse, collaborative communities through the provision of a range of affordable housing options targeted at lower-income households and intermediate options for key workers. It also provides important community infrastructure such as schools and community halls.
3. More recently, the council pledged to secure up to 3,000 new affordable homes over the next four years through a range of avenues including the council's development programme, partnership initiatives and the planning pipeline. The council is committed to defining creative approaches to tackling the housing crisis and exploring the role of intermediate housing options in retaining and attracting workers needed to grow the borough's most exciting growth sectors and deliver the borough's most important public services.

## **Background**

4. In March 2019, Cabinet approved the strategic case for the Community Schools Programme (CSP). This strategy considered the role of modern education facilities and affordable housing in driving the council's inclusive growth agenda and the Industrial Strategy more broadly. It also acknowledged the lack of funding available from the Department for Education (DfE) to enable school improvements. The strategy has three core aims:
  - To re-provide modern, fit for purpose schools to support the borough's ambition to give children the best start in life,
  - To support the funding of education in Hammersmith & Fulham, including future repair and planned maintenance requirements across the school community, and,
  - To fund school redevelopment through the creation of much needed affordable housing which will help maintain the borough's vibrant social mix.
5. The present school building was built as a temporary post war structure, which has been supplemented with various ad-hoc module and prefabricated building additions and alterations over the years to respond to demand. This approach has resulted in an inefficient site with operational challenges.
6. Since large parts of the school building fabric have fallen into disrepair and are considered to have surpassed their life expectancy, it has been deemed that the school is no longer fit for purpose and risk failing to offer the best learning environment for pupils or staff.

7. By June 2020, the council had appointed a project team to progress the scheme to the point of a planning application submission. This team consisted of the relevant disciplines required to enable a sustainable, cost-effective, co-produced design to be developed.
8. At the point of the initial budget approval in March 2019, it had been considered that the approved budget was sufficient to enable the scheme to progress to the end of RIBA Stage 3. Between March 2021 and May 2022, however, the council halted the work of the design team to enable an extended period of consultation with the local community. Design work recommenced in January 2023, though further budget approvals have been sought to respond to the prolongation and further building regulation that had been introduced in the interim period. Further detail is provided in exempt appendix 2.
9. The extended consultation phase has enabled the submission of a planning application in November 2023 that represents a sustainable, co-produced and well-designed set of proposals, including a new primary school, enhanced nursery and SEND facilities, and 91 new homes of which 50% are affordable.
10. The scheme is currently designed to achieve 70% reductions in operational CO2 emissions and the school facilities achieve a BREAAAM excellent rating. These design choices will contribute towards reductions in running costs and utility bills for both the school and future residents.
11. The next section of this report sets out further detail in relation to the scheme, such as the co-production process and the design principles that have underpinned its progress thus far. It also sets out further detail regarding the new homes that will be developed on site. Full detail in relation to technical elements of the scheme and the statement of community involvement can be located within the publicly available planning application.

## **Design Co-Production & Consultation**

12. Following the decision taken by Cabinet in March 2019 to approve the progression of the Community Schools Programme, an extensive engagement process with the school community and local residents began in relation to the design of the scheme. This has included a series of online and in person events.
13. Throughout the design process there have been public consultation events and ongoing informal opportunities for the school community and residents to provide comments on and shape the emerging proposals for the scheme. This process has, as appropriate, included members of the design team, the Cabinet Member, and senior officers.
14. To ensure that the design team has been best placed to reflect the views of the school community and residents in the emerging designs, technical work in relation to the design was halted between March 2021 and May 2022 to enable an extensive period of ongoing consultation.
15. In the months prior to the planning application made in November 2023, the council held a series of exhibitions and on-line events, to share the co-

produced proposed designs with residents, local groups and the school's community. In addition, individual presentations were offered to key external stakeholders.

## **Design Principles**

16. The design has been produced from the outset as described above. There are several further principles that have served to underpin the ongoing design work.
17. Accessibility and inclusive design have been constant drivers within the design process. Specialist accessibility consultants have inputted into the proposals throughout to ensure that accessibility has been properly considered in all decisions. On several occasions, the resident-led Hammersmith and Fulham Inclusive Design Panel has considered emerging proposals. The feedback has consistently been positive, valuable, and important in shaping the design.
18. In line with the council's commitment to *Take Pride in H&F* and attempt to reduce crime wherever possible, the scheme has adopted Secure by Design principles to ensure the safety of pupils, residents, and wider users.
19. From a sustainability perspective, the scheme has many positive elements within the design. Estimated operational carbon reductions in the region of 75% are expected owing to the design work, and the school facilities will achieve industry recognised BREEAM Excellent standard. Urban greening across the site has been optimised and the scheme will see a biodiversity net gain owing to a range of ecological improvements.

## **New education facilities**

20. A detailed breakdown of all new proposals in relation to new education facilities can be found within the planning application, though the report briefly summarises key improvements below.
21. The school and nursery buildings provide additional space over and above the DfE requirements for schools of this type. They also include a higher provision of 'intervention spaces' for SEND support.
22. A range of 'specialist teaching spaces' in excess of DfE requirements are also provided. These spaces include a bespoke Art and Design Technology room as well as a science room larger than DfE requirements. These elements are important to reflecting the priorities of the Industrial Strategy in our education provision through enabling effective learning of creative and scientific skills that will be important to the borough's economic growth in the short-medium term.
23. The school also includes a rooftop learning deck to provide a diverse range of learning environments and to facilitate outdoor learning and play.

## **New homes**

24. A summary of the residential element of the scheme is provided below.
25. The final design will deliver 91 new, sustainable homes, of which:

- 45 (50%) of which will be affordable, comprising of:
  - 27 (30%) homes for Social Rent, and,
  - 18 (20%) homes for Shared Ownership (New Model)

Along with:

- 46 (50%) homes for private (leasehold) sale.

26. 10% will be wheelchair accessible. Due to the constraints of the site, the associated blue badge parking spaces, for these accessible homes, can and will be accommodated within the spare capacity established in the surrounding streets.
27. In line with planning policy, the delivery of the 45 new affordable homes equates to 50% affordable housing provision by 'habitable rooms' in this development. The delivery of 46 private homes yields the necessary net sale proceeds to provide cross subsidy funding for the new school and ancillary accommodation and underpins the approved Community School Programme's strategic objectives.
28. The council has a strong ambition to maximise affordable housing delivery as far as possible. Officers will, at the appropriate stage, explore the use of further subsidy (such as affordable housing S106 funds) to potentially convert all and/or a proportion of the 46 private homes to affordable homes. This could include specific intermediate housing initiatives for key workers, or broader low-cost home ownership opportunities for local residents.
29. Local authorities hold land for specific statutory purposes. Section 122 of the Local Government Act 1972 permits the Council to appropriate land for another purpose where it is no longer necessary for the purpose for which it is held immediately before the appropriation. This includes appropriating land for planning purposes which was previously held for education purposes.
30. **Section 246 of the TCPA 1990** states that a reference to appropriation for planning purposes is a reference to the appropriation of land for the purposes for which land could be acquired under ss 226 and 227 of TCPA 1990.
31. **Section 226 of the TCPA 1990** authorises a local authority to acquire compulsorily any land in their area for planning purposes. This acquisition can take place in one of the following two circumstances if the local authority thinks:
- a) the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land (section 226(1)(a), TCPA 1990);
  - or;
  - b) which is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated (section 226(1)(b), TCPA 1990);

But a local authority must not exercise the power under paragraph (a) unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects—

- (a) the promotion or improvement of the economic well-being of their area;
- (b) the promotion or improvement of the social well-being of their area;



(c) the promotion or improvement of the environmental well-being of their area (section 226(1) (1A), TCPA 1990)

32. However, in reaching this decision to appropriate the Council must consider the public need within the area for the existing use. A separate report will be brought to Cabinet before the development is commenced.

### Next Stage

33. Following the planning application made in November 2023, the next stage of the development is to seek to procure a construction contractor to build the scheme. To progress a procurement strategy for the main contractor and a decision to approve a further development budget require approval from Cabinet and Full Council respectively.

34. The procurement strategy is appended at appendix 3 for reference. Exempt appendix 2 contains finance implications relating to the construction budget request and demonstrates that the scheme can continue to operate on a self-financing basis.

35. The key milestones of the redevelopment project, as the timetable currently stands, are outlined below with a phased practical completion being anticipated during Spring and Summer 2026.

<b>Development's Main Milestones</b>	<b>Date</b>
S77 Application to DfE	Summer 2023
Full Planning Application Submission	Nov 2023
Cabinet Approval - Procurement Strategy	May 2024
Full Council Approval – Development Budget	May 2024
Anticipated Planning Application Decision (LPA Planning Committee)	June - August 2024
<b>RIBA Stage 4:</b>	
Commencement of the Procurement Stage (SQ/ITT)	Late May 2024
Conclusion of Procurement Stage, Review & Evaluation	Dec 2024
Award Decision (CM)	Jan 2025
<b>RIBA Stage 5 to 7:</b>	
Contract Award & Mobilisation Period	Jan 25
Anticipated Contractor Possession/Start on Site	Apr 25
Contract Period (School 24 mths & Residential 30 mths)	
Anticipated Sectional Completion (School)	Apr 27
Anticipated Practical Completion (Residential)	Oct 27

## **Options Analysis**

### **Option 1: Do nothing (not recommended)**

36. The “do nothing” option would either mean not proceeding with this decision, or not proceeding with the Development.
37. Not proceeding with this decision has a range of consequences. Firstly, delaying this decision would lead to a delay in the development process and threaten the availability of funding sources on which the scheme relies. Right to Buy funding has been currently allocated to the project and its availability depends on the development continuing to progress in line with the milestones provided above. There is no guarantee of future grant funding and subsidy becoming available to the scheme and thus no guarantee that it would be able to self-finance in future.
38. Secondly, the decision to not proceed would result in all costs incurred so far becoming abortive. Exempt appendix 2 details the nature of hitherto incurred costs.
39. Finally, the decision not to proceed would constitute a failure to meet both the strategic objectives of the Community Schools Programme and the council’s priority to maximise affordable housing delivery.

### **Option 2: Approve this report’s recommendations (recommended)**

40. This option is recommended. It will allow the council to progress the scheme in line with the milestones described above and will ensure that the organisation continues to deliver against the strategic priorities set out elsewhere within this report, remain ruthlessly efficient and minimise delays.
41. It should be noted that the procurement strategy contains a thorough, bespoke options appraisal in relation to the specific routes to market.
42. It should be noted however, that proceeding at this stage with the procurement prior to securing the s77 consent and full planning permission or the appropriation, could have resource consequences if these are refused. This has been weighed against the financial implication of delaying procurement until these are secured.

## **Reasons for Decision**

43. These decisions are required to comply with the relevant requirements within both the Financial Regulations and Contract Standing Orders. Financial Regulations require that a budget request of this scale be approved by Full Council. Contract Standing Orders require that procurement strategies for high value contracts be approved by Cabinet.

## **Equality Implications**

44. As per the Equality Act 2010, the council must consider its obligations regarding the Public Sector Equality Duty (PSED). It must carry out its function with due regard to the duties (including under Human Rights Act 1998) and its effect on the protected characteristics in a relevant and proportionate way. The PSED came into duty on 6 April 2011.
45. An Equalities Impact Assessment has been carried out and is set out in detail in Appendix 4. It is not anticipated that the approval of any of the recommendations set out at the beginning of this report will have any direct or negative impact on any protected groups under the Equality Act 2010.

### **Risk Management Implications**

46. The report recommends approving a development capital budget and a procurement strategy to appoint a principal contractor to deliver a new one form entry school, associated nursery, SEND facilities and 91 new sustainable homes. This is in line with several council priorities, including creating a compassionate council and being ruthlessly financially efficient.
47. The report recognises several processes, risks and challenges which will need to be considered and navigated and provides mitigating actions where appropriate.
48. Officers will ensure that it is made clear to tenderers that the scheme will need to be contained within the overall scheme budget approved. Officers will also confirm that an appropriate budget is in place to cover the enabling works referred to in the report.
49. Appropriate programme, governance, reporting and communications must be put in place to ensure that the programme is delivered, to budget, on time, with to the defined quality levels and that the required outcomes are achieved. This will include maintaining a programme Risks, Assumptions, Issues and Dependencies (RAID) log.

*David Hughes, Director of Audit, Fraud, Risk and Insurance, 16 February 2024*

### **Climate and Ecological Emergency Implications**

50. The site has specified high levels of energy efficiency beyond minimum requirements, maximises solar panels and utilises a fully low-carbon communal heating system, which will allow future connection to any wider heat network developed in the area. These measures achieve a good level of carbon reduction on-site of 72.9% beyond building regulations.
51. The development has average-to-high embodied emissions from the materials to construction phases compared to industry benchmarks, due to its significant use of reinforced concrete in the design. A number of proposals are made to reduce some of this embodied carbon impact, which will be adopted.

*Jim Cunningham, Climate Policy & Strategy Lead, 23<sup>rd</sup> January 2024*

52. The development has considered options to maximise biodiversity where possible in line with legislation and taking officers comments into account.

*Phoebe Shaw Stewart, Ecology Lead, 29<sup>th</sup> January 2024*

### **Local Economy and Social Value**

53. Local Economy and Social Value are considered in Appendix 3 – Main Contractor Procurement Strategy.

### **LIST OF APPENDICES**

Appendix 1 – Site Plan

Appendix 2 – Exempt Finance Comments

Appendix 3 – Main Contractor Procurement Strategy

Appendix 4- Public Sector Equality Duty

Appendix 5 – Equality Impact Assessment (EqIA)