



London Borough of Hammersmith & Fulham

CABINET

7 APRIL 2014

DELIVERING THE SCHOOLS CAPITAL PROGRAMME

Report of the Cabinet Member for Education – Councillor Georgie Cooney

Open Report

Classification: For Decision

Key Decision: Yes

Wards Affected: All

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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 additional capital funding decisions in support of the Council’s key educational priorities.

2. RECOMMENDATIONS

- 2.1. That approval be given to the capital allocations, and appropriate delegations where required to develop the priority schemes at the following schools:

2.2. Ark Conway

- 2.2.1. To note that the Council is the contracting authority for the expansion of the Ark Conway Free School, subject to confirmation that the construction qualifies for zero-rating for VAT purposes, and that the costs of the project

are underwritten by the Education Funding Agency (EFA). Ministerial approval is being sought for a contract sum of £4,282,297.

- 2.2.2. That the Leader and the Cabinet Member for Education approve the appointment of the contractor for these Ark Conway works, following a competitive exercise.

2.3. **Burlington Danes**

- 2.3.1. To note the increased funding requirement of approximately £1.5m (to approximately £6m) for the creation of a primary school within the grounds of Burlington Danes and the contribution from the Burlington Danes Trust to cover the cost of expanding the sixth form.

- 2.3.2. That the Council undertakes the role of Contracting Authority for the establishment of new-build construction at Burlington Danes subject to confirmation that the construction qualifies for zero-rating for VAT purposes;

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

- 2.4.1. That Contract Standing Orders be waived and that approval be given to the direct award to Elliott Group Ltd for the supply and installation of the temporary classroom units at Sullivan at an estimated cost of £500k to accommodate the students to be relocated from New King's School.
- 2.4.2. That Contract Standing Orders be waived and that approval be given to delegate the approval of the contractor for Normand Croft refurbishment works to the Cabinet Member for Education in order to facilitate the relocation of Paray House from New King's primary school.
- 2.4.3. That approval be given to the procurement strategy as set out at paragraph 5.4 below for the procurement of a contractor to carry out further construction works, and that the Leader and the Cabinet Member for Education approve the award the contract for the construction works at New King's primary school, providing the tendered sum is within the estimated value of £3.8m for this project. (This particular delegation is needed in order to facilitate a timely submission of the planning application and commencement of building works. The estimated cost of works is currently £3.8m).

2.5. **St. Peter's**

- 2.5.1. That the Leader and Cabinet Member for Education approve a funding agreement between the Council and the school, and other appropriate parties, to draw down funding up to the maximum available of £2.279m subject to satisfactory planning and contract award approvals to allow the school to carry out the project described in paragraph 5.5.1 of this report.

2.6. **William Morris**

- 2.6.1. That the approval of a funding agreement between the Council and the school for the provision of post-16 SEN teaching facility be delegated to the Cabinet Member for Education, subject to the development of agreed

education strategy for post-16 SEN, the availability of the adjacent St. Dunstan's site, and planning permission.

2.7. Wood Lane Special School

- 2.7.1. Subject to receiving tenders within the estimated value of the proposed works of £750,000, that approval of the contractor for the expansion of Wood Lane Special School be delegated to the Cabinet Member for Education in order to facilitate the commencement of works in May 2014 and completion in September 2014.

2.8. Lady Margaret's

- 2.8.1. That approval be given to additional Council funding of £500k up to £6.5m to fund 1 form of entry expansion proposals as described in paragraph 5.8 of this report.

2.9. St Thomas'

- 2.9.1. That a provision of up to £124k be established to settle a contractual dispute with the contractors as further described below in paragraph 5.9 and that authority be delegated to the Tri-borough Executive Director of Children's Service, and to the Cabinet Member for Education if required, to determine the appropriate use of this provision in settling the dispute.

2.10. Pope John

- 2.10.1. That approval be given to the allocation of up to £100,000 to fund the cost of providing temporary classroom to accommodate the additional children on roll for September as described below in paragraph 5.10.

2.11. Queensmill @ Fulham College for Boys

- 2.11.1. That approval be given to the allocation of £50,000 to fund the expansion of the autism pilot run by Queensmill school at Fulham college for Boys as described in paragraph 5.11 of this report, the school being the contracting authority.

2.12. Contingency

- 2.12.1. That approval be given to the establishment of a contingency fund of £742k and that authority be delegated to the Cabinet Member for Education to determine the appropriate use of this contingency fund in support of the schemes approved by Members as part of the Schools' Capital Programme..

- 2.13. That approval be given to establish a Planned Maintenance Programme in the value of £1,481,072.

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, £93.116m has already been allocated. This leaves a current balance available for further allocation of £16.408m.

5. PROPOSAL AND ISSUES

5.1. The following projects are proposed for Children's Services capital funding allocations:

	£000
Available funding to meet new commitments	16,408
New Commitments	
Ark Conway	4,282
St Peter's site rationalisation	2,279
William Morris	1,950
Burlington Danes Primary	1,500
Lady Margaret	500
St Thomas'	124
Pope John	100
Expansion of Autism Pilot	50
LA Maintenance Grant	1,481
Contingency	742
	13,008
Residual available budget	3,400

5.2 Ark Conway

- 5.2.1 One of the first free schools, the one-form primary is being developed at the former Old Oak library and requires the stopping up of an adjacent road that has significant utility works to ensure the safety of the construction.
- 5.2.2 The Council is the contracting authority for this project which is being managed and completely underwritten by the EFA. The next stage of the project is due to go out to tender with ministerial approval of £4,282,297.

5.3 Burlington Danes

- 5.3.1 Ark, on behalf of Burlington Danes submitted a free school application to establish a primary school (and adjacent nursery) within the footprint of the current site. Subsequent to that, and in recognition that the land represents the last opportunity for development the Burlington Danes governors have decided to incorporate an extended sixth form block, on top of the proposed primary, in to the proposed design.
- 5.3.2 Whilst the Council will only fund the statutory primary provision, the project requires additional funding from the EFA to fund the nursery, and from Burlington Danes to fund the sixth-form works.
- 5.3.3 The opening of the primary school, scheduled to open in temporary classrooms for September 2014 has been deferred for one year due to significant risks associated with establishing temporary classrooms whilst undertaking a major building project on a constrained site.
- 5.3.4 Due to the complexity of the scheme and the need to work constructively with planners and within planning advice all parties prefer to use 3BM as the designers and project managers. This is only possible if the Council were the contracting authority. Notwithstanding the complexity of the project, there are no implications for the council's VAT position as the project is a new-build scheme that would qualify for a zero-rating VAT rate. The zero-rating status is dependent on the school being used 95% for educational/charitable use and the school providing the Authority with a certificate to this effect. Under these circumstances the council is willing to act as contracting authority.
- 5.3.5 The scheme is estimated to cost approximately £6m. The EFA establish a budget envelope for these type of schemes and have calculated a budget of Approximately £4.8m which is supported by an increase in Free School Grant. Whilst the grant does not cover the entire costs, the £1.2m difference is less than previously provided for within the budget.

5.4 New King's & Sulivan

- 5.4.1 Further to the Cabinet decision to implement the proposals for the discontinuance of Sulivan Primary School and the enlargement of

New King's Primary School, there is a need to proceed with three elements of the project:

A. *Accommodation works at the Sullivan school site;*

5.4.2 In order to complete the project in time for the new academic year, planning permission is required in April and to facilitate that process it is proposed to appoint Elliott Group Ltd to support the planning process with a view to them supplying and installing the temporary classroom. In order to enable the required level of design and construction logistics prior to appointment to facilitate a positive planning determination and installation on site for occupation September 2014, there has not been time to carry out a competitive process as required by the Council's contract standing orders. However, the Council has acted on the advice of 3BM. Elliot's have demonstrated their competitiveness in relation to a previous tendering exercise for temporary classrooms for Queensmill school at Gibbs Green. In addition, of the companies that tendered for that job, Elliot's were the only respondent who confirmed that they would be able to support the process to achieve planning approval.

B. *Relocation of Paray House School within Normand Croft primary school;*

5.4.3 Works at Normand Croft school will also include the relocation of an NHS drop-in facility and other works to be funded by the school. It is expected that the works associated with accommodating Paray House will cost approximately £100,000. These works will form part of a wider project at the schools that is expected to cost approximately £300,000. In order that these works can be achieved in time for the start of the new academic year it is recommended to delegate the approval of the contractor for Normand Croft refurbishment works to the Cabinet Member for Education in order to facilitate the relocation of Paray House from New King's primary school

C. *Developing the planning application for the enlargement of New King's Primary School.*

5.4.4 The scheme will be developed by 3BM, with New King's interests supported by the appointment of a Client Design Advisor, funded by the Council. The proposal is to achieve planning approval by the 31st July and to develop the scheme to stage D of the RIBA process and then go out to tender to appoint a contractor to help develop and cost the scheme to stage E of the RIBA process. In this way it is felt that the Council and the school will achieve the maximum value for money from an agreed design. In order to facilitate the submission of the planning application and commencement of building works it is proposed to delegate the approval of the contractor the construction

works at New King's primary school to the Leader and Cabinet Member for Education. The estimated cost of works is currently £3.8m

5.5 St. Peter's

- 5.5.1 The Council supports the rationalisation of St Peter's school from 3 sites to 2, to prevent the unnecessary movement of children along the highway.
- 5.5.2 The school has developed proposals which will be managed by the diocese on the school's behalf. The scheme has been costed at £2.494m and the schools is requesting council funding of £2.279m. The balance will be funded from the school and a small contribution of LCVAP funding.
- 5.5.3 To develop this project further it is proposed to delegate approval of a funding agreement between the council and the school, and other appropriate parties to the Leader and Cabinet Member for Education to draw down funding up to the maximum available of £2.279m subject to satisfactory planning and contract award approvals
- 5.5.4 The school will act as contracting authority for any construction work carried out.

5.6 William Morris

- 5.6.1 William Morris is a newly established academy providing post-16 education facility that provides specialist learning for SEN students. The Council is keen to commission places at the school and is willing to support the school's plans to provide facilities in the adjacent St. Dunstan's clinic, once the NHS facility moves to the White City Collaborative Care Centre.(Park View).
- 5.6.2 In order to develop this scheme further it is proposed to delegate approval of a funding agreement between the council and the school for the provision of post-16 SEN teaching facility to the Cabinet Member for Education, subject to the development of agreed education strategy for post-16 SEN, the availability of St. Dunstan's and planning permission, if appropriate.
- 5.6.3 The academy will act as contracting authority for any construction work carried out.

5.7 Wood Lane Special School

- 5.7.1 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.
- 5.7.2 The key dates associated with the high level programme are as follows:

Activity	Date
Tender issued	5 March 2014
Tender return	15 April 2014
Tender Evaluation Recommendation report Issued to LBHF	1 May 2014
Target date for confirmation of Contract Award	6 May 2014
Start on Site	20 May 2014
Completion	23 September 2014

5.7.3 In order to facilitate the commencement of works in May and completion in September it is proposed to delegate the approval of the contractor for the expansion of Wood Lane Special School to the Cabinet Member for Education. The estimated cost of these works is £750k.

5.8 **Lady Margaret's**

5.8.1 The School Organisation Strategy of January 2013 awarded a contribution of £6m to Lady Margaret School to fund 1 form of entry expansion proposals against an initial bid of £6.5m. The school have undertaken an analysis of the impact of inflation on the costs of the project and have identified that it is not possible to deliver the agreed scope of the project for less than the initial bid. It is proposed to increase the council's contribution by £500,000 to complete the works.

5.9 **St Thomas'**

5.9.1 The contractor appointed to carry out upgrades to the teaching and kitchen accommodation so support 2 forms of entry has served a claims notice of £124,000 citing flawed specification by the project managers requiring an extension of time and consequential costs . 3BM, as the Council's programme managers are investigating the matter further and will report in due course. In order that the council, as contracting authority, retain sufficient flexibility to contest or to settle the claim it is proposed to establish a specific provision of £124,000 and to delegate to the Tri-borough Executive Director of Children's Service, and to the Cabinet Member for Education if the sums require it, authority to draw down from the provision if deemed appropriate.

5.10 **Pope John**

5.10.1 In order to accommodate the additional children on roll for September 2014 it is proposed to install a temporary classroom. The building project has been affected by delays over the necessary land transfer to support the planning application.. The additional costs associated with are estimated to be £100k. The school is the contracting authority for these works.

5.11 Queensmill @ Fulham College for Boys

- 5.11.1 The Council is keen to support the development of specialist locally provided SEN provision. The Council has previously approved funding of [£50k] to support this development and it is proposed to allocate a further £50k to expand the Queensmill Autistic Spectrum Disorder pilot unit at Fulham Boys College.

5.12 Contingency

- 5.12.1 Given the complexity of a number of the schemes it is proposed to establish a contingency fund of £742k. It is recommended to delegate to the Tri-borough Executive Director of Children's Service the authority to determine the appropriate use of this provision in support of schemes approved by members as part of the Schools' Capital Programme.

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.

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 Council's 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 it is proposed to directly award a contract for around £500k in relation to the supply and installation of temporary classrooms at New Kings/Sullivan. Although the value of the contract means it is below the threshold for works contracts (and therefore is not covered by the full regime of the Public Contracts Regulations 2006) the Council should still seek to comply with general EU principles of transparency, non-discrimination and equal treatment. This generally requires a competitive process to be carried out, as is also required by the Council's own contract standing orders. The reasons for the proposed direct award are set out in the body of this report.
- 9.2. Generally, officers (and schools) should ensure that all individual procurements are carried out in accordance with the Council's contract standing orders and EU procurement rules.
- 9.3. Implications completed by: Catherine Irvine, Senior Solicitor (Contracts) tel 020 8753 2774

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 The report seeks approval for a number of waivers and prior delegated approvals in order to give efficient effect to the Council's Schools' Organisation Strategy and other educational priorities in the borough.
- 12.2 With the exception of the Burlington Danes scheme, the estimated financial value for each scheme described in the report, for which the Council is the contracting authority, falls below the current financial threshold of £4,348,350 for works that would necessitate a fully regulated competition under the Public Contract Regulations 2006. Appointment of the contractor for the works at Burlington Danes will therefore need to comply with the public procurement regulations.
- 12.3 The estimated value of works required at Ark Conway (£4.282m) is close to the regulated threshold. If officers believe and are able to demonstrate that the pre-tender estimate is accurate, robust and realistic, the placing of an OJEU contract notice and fully regulated procurement for Ark Conway will not be required. If, however, commissioning officers believe the eventual tendered sum could exceed £4.3m, they should consider whether it would be prudent to place an OJEU contract notice for this scheme in order to prevent possible legal complications and delays later on.

- 12.4 The commissioning of *3BM* to act on the Council's behalf in schools and educational related matters is provided for in the OJEU notice posted prior to the creation of *3BM*.
- 12.5 Paragraphs 12.5 and 12.5.1 of the Council's Contracts Standing Orders (CSOs) allows waivers to normal contract award procedures to be granted for new contracts which are reported to Cabinet as either part of a capital or planned maintenance programme, provided the proposed programme for tendering the schemes is approved as a Key Decision by Cabinet and the Key Decision is made prior to the commencement of the tendering procedure. Such a report should also include a realistic estimation of the costs involved. This report does that. If the Key Decision is approved, subsequent contract award decisions can then be delegated to the relevant individual Cabinet Members as set out below.
- Where an open and transparent tendering exercise has been completed, and the tendered sum is within budget, the contract can be awarded by:
- the relevant Cabinet Member(s) where the value is £100,000 or more but less than £1,000,000; or
 - the relevant Cabinet Member(s) and the Leader of the Council where the value is £1,000,000 or more but less than £5,000,000.
- 12.6 In respect of waiving the Council's normal competition requirements for the supply and installation of temporary classrooms at Sullivan and the relocation of Paray House to Normand Croft, this is provided for in Section 3.1 of the Council's Contracts Standing Orders: it is in the Council's overall interest; there are genuinely exceptional circumstances; and prior approval to obtain the waiver has been sought, along with the reasons for it being reported to Cabinet, which this report does.

Comments provided by: John Francis, Principal Consultant, H&F Corporate Procurement. 020-8753-2582.

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