

 the low tax borough	<b>London Borough of Hammersmith &amp; Fulham</b>  <b>CABINET MEMBER DECISION</b>  <b>MAY 2014</b>
<b>WILLIAM MORRIS SIXTH FORM SCHOOL - CONVERSION TO ACADEMY STATUS</b>	
<b>Report of the Cabinet member for Education</b>	
<b>Open Report</b>	
<b>Classification - For Decision</b> <b>Key Decision: No</b>	
<b>Wards Affected: Fulham Reach</b>	
<b>Accountable Executive Director:</b> Andrew Christie, Strategic Executive Director of Children's Services	
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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**

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

#### **LIST OF APPENDICES:**

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