


<p style="text-align: center;">London Borough of Hammersmith & Fulham</p> <p style="text-align: center;">CABINET</p> <p style="text-align: center;">7 NOVEMBER 2016</p>	
<p style="text-align: center;">CREATION OF AN EDUCATION HUB AND NEW YOUTH PROVISION</p>	
<p>Report of the Cabinet Member for Children and Education – Councillor Sue Macmillan</p>	
<p>Open Report</p>	
<p>Classification - For Decision</p>	
<p>Key Decision: Yes</p>	
<p>Wards Affected: White City & Wormholt</p>	
<p>Accountable Executive Director: Clare Chamberlain, Executive Director Children’s Services</p>	
<p>Report Author: Dave McNamara Director of Finance & Resources, Children’s Services</p>	<p>Contact Details: Tel: 020 8753 3404 dave.mcnamara@lbhf.gov.uk</p>

1. EXECUTIVE SUMMARY

1.1. On 20th October, Ark Swift, in conjunction with Harmony Nursery announced a consultation with parents on a proposal to redevelop the site on Australia Road/South Africa Road. As the freeholder of the land, Ark have approached the Council with a view to disposing of the land by way of leasehold.

1.2. Whilst Ark already have a leasehold on the existing Ark Swift they want to establish an education hub at the site and to establish their Head Office in Hammersmith & Fulham, and attract similar organisations with the relocation of up to 2,000 jobs to Hammersmith & Fulham. The scale of the draft proposals are intended to achieve the following:

- Rebuild of the existing Ark Swift school;
- Building a new youth provision (to be run by Youth Onside);
- Establishing a new care leavers’ hub;
- Reproviding existing affordable childcare
- Reproviding existing Adult Learning;
- Rehousing of the site supervisor;
- Establishing an Education Hub for Ark and other similar organisations
- Establishing affordable rented homes for teachers.

- 1.3. Ark are undertaking a community engagement exercise to determine support for their project and detailed planning application.
- 1.4. The Council is the statutory planning authority and must be mindful that it is not seen to have pre-determined the planning application in relation to this project.
- 1.5. This report seeks to delegate the approval of Heads of Terms on the conditional leasehold disposal of land at Ark Swift (formerly Canberra) and surrounding area, subject to community support for the proposal.
- 1.6. Heads of Terms will also seek to protect the council's interests in relation to any unforeseen commercial benefit to be derived from the development.

2. RECOMMENDATIONS

- 2.1. Subject to positive community engagement and a successful planning application, to delegate approval of the Heads of Terms, for all property agreements and commercial property negotiations of all aspects of this project, and suitable safeguards to protect the council's financial and commercial interests to the Cabinet Member for Finance in consultation with the Director of Building and Property Management and the Strategic Finance Director.
- 2.2. To delegate the decision on how the provision of Adult Learning is to be addressed in this project to the Cabinet Member for Social Inclusion and the Cabinet Member for Economic Development and Regeneration, in conjunction with the Director of Growth and Strategy.
- 2.3. To delegate the approval of an operational agreement and for the appointment of Youth Onside as the provider of youth facilities, subject to a separate commissioning agreement to the Cabinet Member for Children and Education, in conjunction with the Director for Children's Commissioning.
- 2.4. To approve the rehousing of the site manager's family to facilitate the redevelopment and delegate this to Director of Finance and Resources, Children Services.

3. REASONS FOR DECISION

- 3.1. Subject to positive community engagement for the project and a successful planning application, the Council supports the establishment of an education hub for:

the economic regeneration benefits it will yield through the relocation of 2,000 jobs to Hammersmith and Fulham;
the education benefits that pupils will derive from a new modern school;

the new community benefits it will derive for the establishment of a new youth facility;
the funding provided for the establishment of a new support hub for care leavers;
the enhanced community benefits that will be derived from the re-provision of Adult Learning and affordable child-care

4. PROPOSAL AND ISSUES

Whilst the community and economic benefits of the proposal are clear there are significant legal, planning and financial challenges that are raised and that the council needs to address in reaching its decision. The council also needs to consider the impact on the local community and ensuring that valued services are re-provided. The proposal will be driven forward using best practice project management skills ensuring all internal and external stakeholders are engaged.

Legal and Valuation

- 4.1. The decision to dispose of land needs to have regard to appropriate valuations and legal constraints. LBHF will need to agree with ARK on the capital value of its property interest reflecting the modified user clause of the lease that will help facilitate the comprehensive range of new uses including office use and also other education aligned uses on the site. There will also need to be valuations of LBHF other land interests that will help facilitate this development. The Council will also be supporting new facilities on the site including adult education and youth provision and the construction cost of these facilities will need to be costed too. If the Council was minded to offset a capital receipt in lieu of the provision of new operational facilities for local residents then further analysis will be undertaken to assess the property benefits and costs. More information will be needed to ensure new operational facilities which the Council supports eg adult education and youth will not have any revenue costs or rental charges that will impact on LBHF budgets and these new spaces will be safeguarded for local community use going forward. The Council will also need to work with ARK to ensure the drafting of the property agreements on the commercial offices and affordable housing to ensure specific uses proposed are maintained long term.
- 4.2. Consent of the Secretary of State will also be required to dispose of education land as an amendment of a standard Academy lease is being undertaken. The legal section also refers to the Council's obligations to get best value and further information is needed from the external valuer before the Council can assess if a formal SOS consent is needed.

Planning

- 4.3. The project is a significant development which will have a major impact upon the local community and needs to be developed in accordance with planning guidelines.

- 4.4. The developer has submitted a pre-planning application and is currently in discussion with planners to ensure the application is compliant. As part of this process the developer will undertake a consultation exercise.

Existing Service Provision

- 4.4.1. Affordable child care is currently run by Harmony Nursery and agreement needs to be reached as to how this should be reprovided in the new development.
- 4.4.2. Adult Learning currently run facilities from the Adult Community Learning centre (ALCL) on Australia Road and agreement needs to be reached as to how these should be reprovided in the new development.
- 4.4.3. In determining the level of adult learning to be provided within the proposed development, consideration will need to be given to the current review of Further Education provision within West London.

New Service Provision

- 4.5. The project allows the location of a brand new youth facility within the development as well as providing the finance for the establishment of a support hub for care leavers.
- 4.6. Subject to a separate commissioning agreement Youth Onside will be appointed to run the youth facility.

5. OPTIONS AND ANALYSIS OF OPTIONS

- 5.1. The council is being asked by Ark, leaseholder of the site at Ark Swift, on the White City Estate to consent to the rebuilding of the school and establishing of an Education Hub that allows it to relocate its headquarters from Central London and run all of its projects from Hammersmith & Fulham.
- 5.2. The Council is the statutory planning authority, and whilst it is also the freeholder of the land that is proposed to be developed and may support the establishment of a new youth facility and care-leavers' hub, it must not pre-determine the planning application in relation to this project.
- 5.3. In considering this request the council has given consideration to what might be achieved through including adjacent freeholding to form a larger site that would permit a larger development that could provide additional facilities both on site and elsewhere, as well as ensuring the continued provision of existing services within the new development. As greater value can be achieved through this option, this is the option that the council is following.

6. CONSULTATION

- 6.1. Ark are leading on a community engagement exercise to determine support for the scheme to be included within the proposed planning application. The planning application will also include a consultation exercise.

7. EQUALITY IMPLICATIONS

- 7.1. Should the proposal proceed there will be significant positive implications for the residents of the white City and the rest of the borough. The re-provision of the nursery provision is likely to include an expansion that will increase the number of affordable childcare places for working families; the re-provision of the Adult Learning facility within a modern building will enhance the service offering for people accessing employment and other courses; the establishment of a youth facility will provide children and young people with a unique opportunity to access a wide range of sport and leisure activities; and the establishment of a care leavers hub will provide a valuable resource for some of the most vulnerable members of the community.

8. LEGAL IMPLICATIONS

- 8.1. The Council has been advised by Trowers & Hamblins LLP, external solicitors. The Council is proposing to dispose of an interest in land by way of a long leasehold interest to Ark - a non-exempt charity and company registered in England and Wales. Ark is proposing (subject to planning permission) to develop the site for :-

- 8.1.1. A rebuilt Ark Swift Academy School

- 8.1.2. A nursery

- 8.1.3. An Adult Learning facility;

- 8.1.4. New office headquarters for Ark and others;

- 8.1.5. Key worker housing; and

- 8.1.6. A “graduate school”;

- 8.2. It is understood that the Council currently holds the freehold of the land and the land is appropriated for the purposes of education. The Council has the power to dispose of land held by it in any manner it wishes pursuant to section 123 of the Local Government Act 1972 provided it is for the best consideration reasonably obtainable where the interest being disposed of consists of the grant of a term exceeding seven years. The Council also has a duty pursuant to section 13 of the Education Act 1996, giving local authorities general responsibility to secure efficient education to meet the needs of the population of their area and pursuant to section 14 of the Education Act 1996 to secure that sufficient schools are available for their area – the development will consist of a nursery school, primary school and Adult Learning facility so

powers with regard to secondary education will not be relevant here. The Council also has a common law fiduciary duty to obtain value for money, to act in a business-like manner and to act for a proper purpose when exercising its powers and to have regard to all relevant considerations and disregard irrelevant considerations.

- 8.3. Trowers & Hamblins and ARK's solicitors, Bond Dickinson, have sought an opinion from James Goudie QC, a leading authority specialising in public procurement law who has confirmed that ARK through its long leasehold interest in the majority of the site has an "exclusive right" and therefore no reasonable alternative or substitute party could develop the site, . As such, the Council would be justified in using the negotiated procedure without prior advertisement. pursuant to Regulation 32(2)(b)(iii) of the Public Contracts Regulations 2015 to conclude the transaction with ARK.
- 8.4. Valuations are being finalised that will help negotiations by LBHF and ARK on the value of its interests and also inform the level of benefits new facilities.
- 8.5. Subject to confirmation that the independent surveyor has verified that the Council's disposal of this interest in the site presents open market value, the proposed transaction complies with the Council's "best consideration" requirement of section 123 of the Local Government Act 1972 (as referred to above) and the Council's common law fiduciary duty to obtain value for money and would not appear to raise any potential concerns with regard to unlawful state aid.
- 8.6. Implications verified/completed by: Helen Randall, Legal departement, RBKC

9. FINANCIAL IMPLICATIONS

- 9.1. There are many financial matters that will require consideration should these proposals proceed. They include:
 - Any implications for the council's capital programme
 - Taxation issues
 - Service provision during the development and any transitional costs
 - How the future impact on revenue budgets can be contained within existing budgets?
 - The benefits that may arise from additional business rates.
- 9.2. These, and other relevant financial matters, will need to be addressed prior to the approval of Heads of Terms. Account of the proposals will must be taken within the councils forward financial plans.
- 9.3. Implications verified/completed by: Hitesh Jolapara, Strategic Finance Director.

10. IMPLICATIONS FOR BUSINESS

- 10.1. The proposal is subject to a planning application, appropriately determined by the council. Should it be approved it would lead to the establishment of approximately 2,000 jobs within the borough and increase the level of disposable local expenditure by employees

11. BACKGROUND PAPERS USED IN PREPARING THIS REPORT

Independent Valuation Report (Exempt)