



Cabinet
26 January 2015

**Report from the Strategic Directors
of Regeneration and Growth and
Children and Young People**

For Action

Wards affected:
ALL

Update on Schools Capital Portfolio

1.0 Summary

- 1.1 In a Cabinet report on the revised School Place Planning Strategy 2014-2018 approved in October 2014, officers committed to report back to Cabinet with fully detailed and costed proposals on three projects to be added to the Phase 3 Permanent Primary School Programme to enable full Cabinet approval to proceed. This report primarily addresses that requirement and provides a full update on the financial profile of the overall schools capital portfolio. Approval is also sought to enable the commencement of works contract procurement on additional Phase 3 projects as appropriate.
- 1.2 A set of criteria providing a more detailed underpinning of the School Place Planning Strategy in relation to design development is described for Cabinet endorsement. These criteria enable more transparency and clarity over the application of the strategic principles to schools in the expansion programme. This will in turn enable a greater degree of cost certainty over project and programme delivery supporting the overall financial profile provided.

2.0 Recommendations

Cabinet is recommended to:

- 2.1 Approve the proposal to rebuild and expand Islamia Primary School (subject to necessary approvals) noting the potential for increased capital costs for the project and consultation timescales described in paragraphs 3.3 - 3.6. Delegate authority to approve the fully costed and detailed proposals to the Strategic Director Regeneration & Growth in consultation with the Chief Finance Officer and Lead Member for Regeneration and Housing. A detailed report on proposals for Winkworth Hall will be provided in September 2015.
- 2.2 Approve the proposal to expand Byron Court Primary School as described in the report at paragraphs 3.7 - 3.9.
- 2.3 Approve the proposal to expand Oakington Manor Primary School on the terms described in paragraph 3.10 of the report and delegate authority to approve the fully costed and detailed proposals to the Strategic Director Regeneration & Growth in consultation with the Chief Finance Officer and Lead Member for Regeneration and Housing.
- 2.4 Approve the proposal to expand Leopold Primary School to become a 4FE split site primary school using the Gwenneth Rickus Building as described in paragraph 3.11-3.14 of the report and delegate authority to approve the fully costed and detailed proposals to the Strategic Director Regeneration & Growth in consultation with the Chief Finance Officer and Lead Member for Regeneration and Housing
- 2.5 Approve the invitation to tender for three works contracts for the schools detailed in 2.2 - 2.5 above on the basis of the pre-tender considerations set out in paragraph 3.16 of the report.
- 2.6 Approve Officers evaluating the tenders referred to in 2.5 above on the basis of the evaluation criteria set out in paragraph 3.16 of the report.
- 2.7 Approve the updated Schools Capital Portfolio financial profile as set out in paragraph 3.17-3.22, section 4 and appendix 1, including the revised project/programme allocations.
- 2.8 Approve the criteria for developing new school expansion projects described in paragraph 3.23-3.25 and appendix 5.

3.0 Detail

Phase 3 Permanent Primary School Expansion Programme

- 3.1 In October 2014 Cabinet approved the revised School Place Planning Strategy including proposals for additional projects to be added to the Phase 3 Permanent Primary School Expansion Programme. Officers committed to report back to Cabinet with fully detailed and costed proposals on three projects to be added to the Programme to enable full Cabinet approval to proceed. This report primarily addresses that requirement and in addition provides an update on other projects within the Phase 3 Programme for

information and approval. Table 1 below shows the capital projects in the Phase 3 Permanent Primary School Expansion Programme:

Table 1 – Phase 3 Projects

	No. of additional places	No. of additional places in Forms Entry (FE)	Total FE on completion
Uxendon Manor Primary	420	2	4
Elsley Primary	420	2	4
Stonebridge Primary	210	1	3
Islamia Primary	210	1	2
Malorees Infants and Juniors	210	1	3
Byron Court Primary	420	2	5
Leopold Primary (Gwenneth Rickus)	420	2	4
Oakington Manor Primary	210	1	4
Total number of places	2520	12	

- 3.2 All Phase 3 projects continue to be developed by officers in respect of consultation on school organisation changes and design development, planning approval and procurement of works. A full financial profile is provided in paragraph 3.17-3.22, section 4 and appendix 1 of this report. Cabinet is advised that the Phase 3 Programme experiences the challenges associated with an increase in construction market activity, with cost estimates increased by 10-15% compared to similar project costs in the Phase 2 Programme. Cost estimates for Phase 3 projects are currently being undertaken relative to the stage of design development.

Islamia Primary School and Winkworth Hall

- 3.3 The proposal to rebuild and permanently expand Islamia Primary School to become a 2FE school has been approved as part of the Phase 3 Programme since November 2013. Officers have progressed this project since that time and have now secured capital funding from the DfE and the Governing Body, including agreement to utilise previously time expired Targetted Capital Fund grant. This has increased the total capital budget. Whilst this has enabled some progression in the development of the project, recent cost estimates indicate that this will still be insufficient capital funding to rebuild the 2FE primary school. Cabinet is asked to note the potential for additional capital costs which will be funded from basic need capital funding if alternative additional resources such as appropriate S106/CIL contributions cannot be identified to enable it to be delivered. Project costs are provided in appendix 2. Cabinet is asked to delegate authority to approve the fully costed and detailed proposals for this project to the Strategic Director Regeneration & Growth in consultation with the Chief Finance Officer and Lead Member for Regeneration and Housing. This will be part of the usual governance process of the schools capital portfolio.

3.4 Design proposals for a new 2FE Islamia Primary School have already been seen by the public as a planning application made by the Islamia School Centre was recommended for approval subject to a legal agreement between the council and Trustees in 2010. That legal agreement (S106) was not signed and therefore planning approval has not been granted for that application. Since then, as noted above the council has brought the requirement to rebuild and expand Islamia Primary School into its school expansion programme such that it will be managed by the council rather than the school or trustees in line with all other projects in the school expansion programme. This has enabled the government funding contribution to be retained and opens up a way forward to providing permanent school places in fit for purpose accommodation. Changes in school building design standards since 2010, along with increased construction costs, necessitate a fundamental review of the previous design to ensure good value for money. A new planning application will be required which will reflect both the new design for the school and any changes in operational arrangements for the site that have occurred since the original application. Consultation with the local community will also be a key part of the success of this fresh approach.

3.5 Cabinet is asked to approve the indicative consultation timelines in respect of the Islamia project as outlined below:

Activity	Consultees	Indicative Dates
Informal Consultation on School Expansion (start of statutory consultation)	Lead Members, local Ward Members, Islamia Primary School (Governors, parents and staff), Yusuf Islam Trust, QPRA, St Anne's Church, Conservation area reps, Hopscotch Nursery, local residents close to IPS site, usual consultees on school expansion e.g. other local schools	February – March 2015
Wider information sharing and consultation with local community on scheme proposals	Kilburn & Kensal Brent Connects Forum	April 2015
Formal Statutory Consultation on School Expansion Pre-planning submission consultation with local community	As informal stage above including advertisement on Brent website, in Libraries, Schools, Markets, local Newspapers, on the school gates etc	May – June 2015

- 3.6 Members will be aware that in addition to their core site, Islamia Primary School also occupies the second and third floor of Winkworth Hall, on near-by Chevening Road, (a Council owned four storey detached late-Victorian building). The garden, ground and first floor of this building is let to Hopscotch Day Nursery. Both leases are co-terminus and currently expire in August 2016. If the above school scheme is approved the proposal is that Islamia Primary School's occupation of Winkworth Hall will end on completion of their new build primary school in August 2016. This creates an opportunity to consider the future development options for the Winkworth Hall site. On this basis further feasibility work will be undertaken with a view to delivering a scheme at Winkworth Hall that comprises of ongoing nursery provision and new residential development. This feasibility work will be undertaken in consultation with Hopscotch Nursery (see Appendix 3 for plans). Cabinet is asked to note that a report in respect of the redevelopment of Winkworth Hall will be provided in September 2015.

Byron Court Primary School

- 3.7 In October 2014 Cabinet approved the progression of expansion proposals for Byron Court School, subject to a subsequent report being submitted to Cabinet to consider a fully detailed and costed scheme. Cabinet is now therefore asked to approve the detailed scheme proposal which is that this Outstanding school will expand by 2FE to 5FE in total with a gradual intake from Reception starting in September 2015. The total estimated cost of the project is provided in appendix 2. The cost and funding for this scheme is included within the financial profile outlined in Section 4 of this report although it should be noted that additional funding sources have been added to address condition issues and works outside the programme criteria.
- 3.8 The proposed works will include the replacement of existing poor condition classroom outbuildings in order to both avoid future cost in replacement of these classrooms in the near future and to consolidate the footprint of buildings across the site to achieve an optimal layout from a school management perspective. This will also help to maximise the quality and quantity of outdoor play space. The proposals also include the increased use of an existing under-used entrance to the school. This is part of a package of considerations in respect of the impact on local traffic and congestion as a result of the proposed expansion. Funding from the Councils' Asset Management Programme has been allocated to this project to address costs associated with poor condition buildings. At this stage the costs of measures to ameliorate the impact on local traffic can be contained within the project however this work is ongoing and all options to pool available funding to address local highways matters are being considered.
- 3.9 Planning approval will be required for the scheme and engagement with local residents on the proposals has already begun. On the basis of the earlier approval in October 2014, the consultation process on the school expansion has also begun and the formal statutory consultation will be undertaken over the next few weeks. A report to Cabinet on the outcome of that consultation will be presented to the March 2015 meeting. The expectation is that subject

to these approvals, two additional reception classes will start at Byron Court in September 2015 in temporary accommodation, with the main construction works taking place during that year to complete for the 2016/17 academic year.

Oakington Manor Primary School

- 3.10 Members are asked to approve the development of this partnership project on the terms described in Appendix 4 of this report which essentially propose greater engagement of this outstanding Foundation School in the delivery of the project to provide a 1FE expansion. Subject to Cabinet and Governing Body sign off of this approach, a detailed feasibility study will then be carried out in January/February 2015, leading to a fully detailed and costed proposal. An indicative budget is provided in appendix 2. Members are asked to approve the partnership approach and to delegate approval of the fully detailed and costed scheme proposal to the Strategic Director of Regeneration and Growth, in consultation with the Chief Finance Officer and relevant Lead Members. Any expansion proposal would then require Cabinet approval to expand the school following consultation, Planning Committee approval of a planning application and Cabinet approval to award a works contract before it could proceed.

Leopold Primary School into Gwenneth Rickus Building

- 3.11 Leopold Primary School currently runs several temporary bulge classes from the Gwenneth Rickus Building. The project to provide 15 temporary classes in various year groups at this building was approved by the Executive committee in May 2013 and the cost of the project totalled £1.32m. A 2FE primary school would require 14 classrooms, so the capital cost of this scheme therefore represents excellent value for money. Leopold Primary is a good school and is already working effectively with the split site model at the Gwenneth Rickus Building on Brentfield Road and the original school buildings on Hawkshead Road to full advantage for all pupils. Further to the Cabinet approval in October 2014 to develop the project proposals, Cabinet is asked to approve the development of a permanent 4FE Leopold Primary School split across two sites and to the permanent use of the Gwenneth Rickus Building for this educational purpose (subject to necessary further approvals).
- 3.12 The Gwenneth Rickus Building is owned by the Council and has a site area large enough to accommodate a permanent 2FE primary school. The land and building value combined with both the cost incurred to date on the building and the anticipated cost of works to create a permanent school is below the average cost estimate for a new build 2FE primary school or a 2FE expansion of an existing school (costs are provided in appendix 2). It represents a good value for money option to provide 2FE permanent school places in that respect. The site also gives the potential to increase to 3FE if required at a future date, providing the potential for Leopold Primary School to become a 5FE primary school working on a split site. This is not the current proposal but any works would be designed to enable that expansion to be

progressed easily if deemed appropriate in the future subject to necessary approvals. The split site model is in line within the principles contained within the revised School Place Planning Strategy.

- 3.13 Clearly there are potential alternative uses of the Gwenneth Rickus building - such as for residential development - but following Cabinet approval to use the site for temporary school places in May 2013, an education use has been established which would then mean that Secretary of State approval would be required to dispose and/or change the use of the site. It would be inconsistent for the council to seek to change the use of this site whilst simultaneously requiring additional primary school places across the borough with limited opportunities to provide them. In this scenario, the site would almost certainly be reviewed by the EFA to match to an approved free school provider. In addition, any such change of use would not be able to take place until at least July 2021 when the current children in temporary school places had moved through the school. Not using this building for permanent school places would also mean a requirement to provide those places elsewhere in the borough. There is no expectation of a capital receipt arising from this building in the Council's Capital Disposals Programme.
- 3.14 A feasibility study showing how the building could be converted to provide temporary classes and then to become a 3FE primary school was undertaken in 2013. The study gave an estimated total cost for both elements of work. The financial assumptions for conversion to provide a 2FE permanent school in this building are provided in appendix 2. These assumptions would need to be tested by an updated feasibility study and cost estimate to reflect current prices. The feasibility study will be undertaken early in 2015 subject to Cabinet approval. The Governing Body of Leopold Primary School confirmed in December 2014 that it had agreed to start a consultation process on permanent expansion by 2FE. Members are asked to approve the proposal to expand Leopold Primary School to become a 4FE split across two sites, for the Gwenneth Rickus Building to be permanently used as a primary school by Leopold Primary School and to delegate approval to the fully detailed and costed scheme proposals to the Strategic Director of Regeneration and Growth in consultation with the Chief Finance Officer and relevant Lead Members. Further Cabinet approval to expand the school following a statutory consultation process will be required (anticipated June 2015) and a planning application may also be necessary pending the detailed design proposals for the site.

Works Contract Procurement

- 3.15 In September 2014, Cabinet approved a procurement strategy for Phase 3 capital projects (including Islamia Primary), which at that time did not include Byron Court Primary, Oakington Manor Primary and Leopold Primary (Gwenneth Rickus Building) as these projects were only approved as part of the Phase 3 programme in October 2014. Cabinet is now asked to extend the previous approval for the Phase 3 procurement strategy and pre-tender considerations to also include any new projects added to the Phase 3 programme as shown in Table 1 above. The pre-tender considerations are set out below for the three projects named above. All three projects would be

high value works contracts but Cabinet should note that it is unlikely that Leopold (Gwenneth Rickus) would exceed the threshold for EU works procurement. This is detailed in section 5 below. In summary, all Phase 3 projects will be packaged appropriately and procured using a two stage Standard Tender process, utilising the evaluation and assessment criteria set out in point (vi) of the pre-tender considerations below. Note in particular the proposal to assess bids on the basis of a 50:50 split between price and quality. Cabinet is asked to approve the pre-tender considerations and evaluation of tenders in accordance with the details provided.

- 3.16 In accordance with Contract Standing Orders 88 and 89, pre-tender considerations for all projects within the Phase 3 schools programme to be let using a formal tender route compliant with EU Regulations (if required) are set out below for the approval of the Cabinet:

Ref.	Requirement	Response
(i)	The nature of the service	Works (construction) contracts for additional school projects within the Phase 3 Permanent Primary School Expansion Programme. Schools currently anticipated are as follows: <ul style="list-style-type: none"> • Byron Court Primary • Oakington Manor Primary • Leopold Gwenneth Rickus

(ii)	The future estimated value of the contract/s	<p>Pre-tender construction estimates cannot be provided on a school by school basis at this point, as design development is either underway or yet to substantively start, a new procurement route is being proposed and because it is not yet known which schools will formally be included in the programme (as in some cases consultation with and the agreement of the schools has yet to be finalised).</p> <p>The schools potentially in scope are set out in 3.3-3.14, and repeated below for convenience.</p> <ul style="list-style-type: none"> • Byron Court Primary • Oakington Manor Primary • Leopold Gwenneth Rickus <p>As a guide to contract size the average contract cost per FE procured in the last 12 months was £2.8m. As described previously, the anticipated maximum size of this extension to the programme is 5 FE, on this basis alone the programme extension might be valued at £14m. The programme extension is unlikely to be procured as a whole, but rather as individual projects or small batches of projects. There is a clear expectation is that this procurement is intended to improve value for money. Other factors, such as the topography of individual sites, constraints imposed by existing buildings and other factors will also impact on the price.</p>	
(iii)	The contracts term	Each construction contract will be for a period of approximately 12 months with an anticipated defects liability period of 12 months	
(iv)	The tender procedure to be adopted.	The procedure will be a Restricted Procedure compliant with EU Regulations. The indicative timescale below applies to the Restricted Route.	
(v)	The procurement timetable	As previously noted, the projects within this programme of work are at different stages of development and the issue of tender documents is likely to be staged	

		<p>accordingly. Individual project timescales may vary but indicative dates for the 2-stage design and build contracts are:</p> <ul style="list-style-type: none"> • Adverts placed 27.01.15 • Expressions of interest (Pre-Qualification Questionnaire) returned (30 day PQQ period) 26.02.15 • Shortlist drawn up in accordance with pre-determined minimum standards as to financial standing and technical competence 26.03.15 • Invite to tender 27.03.15 • Deadline for tender submissions (minimum 40 day ITT period) 08.04.15 • Panel evaluation 30.04.15 • Report recommending Contract award circulated internally for comment 04.05.15 • Award of Stage 1 and 2 contracts . 15.06.15 (Cabinet meeting) • Triggering of Stage 2 contract 26.10.15 26.6.15 (Contract start date following 10 day standstill period) • Stage 2 contract start date (including standstill period) 06.10.15
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(vi)	The evaluation criteria and process	<p><u>Pre-qualification stage</u> Shortlists are to be drawn up in accordance with the Council's Contract Management Guidelines by a pre-qualification questionnaire (PQQ).</p> <p>The pre-qualification will test the capacity and capability of potential bidders as well as potential bidder eligibility to take part in the Procurement.</p> <p><u>Invitation to Tender (ITT)</u> For those that passing the PQQ stage there will follow an Invitation to Tender (ITT) stage.</p> <p>As this route is proposed with a two-stage tendering process, the initial tender evaluation described below will lead to award of contract for Stage 1 of the Design and Build Contract.</p> <p><i>Stage 1 of the tender</i> Tenders will be evaluated on the basis of the most economically advantageous tender using the following criteria and overall weightings.</p> <p>1. Quality Quality will consist of 50% of the overall evaluation. The quality assessment will be evaluated using the following criteria.</p> <ul style="list-style-type: none"> • Project and cost Management • Construction programme • Project Understanding and client liaison • Quality • Health and Safety • Innovation • Sustainability <p>2. Price Price will consist of 50% of the overall evaluation.</p> <p>Price will be evaluated using a lump sum price that will be built up from fixed costs for Overheads and Profits, Preliminaries, Pre-construction Services and if required,</p>
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		<p>Enabling Works.</p> <p><i>Stage 2 of tender</i></p> <p>The contract sum and programme for Stage 2 of the contract will be developed based on an open book procurement by the Stage 1 contractor of agreed work packages. It is proposed that the triggering of this part of the contract will be under delegated authority subject to the agreement of a programme and contract sum that falls below the agreed maximum levels determined on award of the Stage 1 contract. It is anticipated that Stage 2 would be agreed within 3-4 months of the tender submission but this would be confirmed per project dependent on the specific requirements.</p>
(vii)	Any business risks associated with entering the contract	No specific business risks are considered to be associated with agreeing the recommendations in this report.
(viii)	The Council's Best Value duties	This procurement process and on-going contractual requirement will ensure that the Council's Best Value obligations are met.
(ix)	Any staffing implications	There are no direct staffing implications
(x)	The relevant financial, legal and other considerations	<p>See Sections 4 and 5.</p> <p>This is a two stage tendering process. If a contract sum and programme for Stage 2 can not be agreed at the end of Stage 1, the works undertaken within Stage 1 would be self-contained and would still contribute to the delivery of the project. Designs worked up by the contractor within Stage 1 can be used to inform further tenders. Notwithstanding programme pressures to deliver sufficient school places, the council would not be contractually committed to agree to Stage 2 if an acceptable contract sum and programme within agreed parameters could not be agreed at the end of Stage 1.</p>
(xi)	Measures to deliver economic, social or environmental benefits in	The works contracts will place a requirement on contractors to support the council's objectives for enterprise and employment.

	accordance with the Public Services (Social Value) Act 2012	See section 8.
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Schools Capital Portfolio Financial Profile

- 3.17 The Schools Capital Portfolio Financial Profile has been updated to reflect the revised School Place Planning Strategy 2014-18 approved in October 2014. A detailed financial profile is shown at Appendix 1. Cabinet is asked to approve the revised financial profile.
- 3.18 In summary, a total of £19.23m has been spent on both temporary and permanent school places to the end of the 2013/14 financial year (including £0.24m in 2011/12). A further £110.93m has been committed to the delivery of schemes adopted as part of the School Place Planning Strategy to the end of the Phase 4 Permanent Primary School Expansion programme agreed in October 2014. In addition there is commitment within the Financial Profile to new provisions to meet legal costs arising associated with previous schemes and contribute to the Priority School schemes to the end of 2017/18.
- 3.19 The Financial profile also includes provisions for further forecast costs which are not currently allocated to specific schemes, as follows:
- The School Place Planning Strategy does not currently propose the council led development of any additional secondary school places; neither does it rule this out. The strategy includes details of proposed free schools for the borough that will potentially provide a total of 11FE primary school places and 9.3FE secondary school places in the 2014-18 period to be funded directly by the Education Funding Agency at no cost to the council. There is risk to the council that if all of these places are not provided via this route that the council will need to provide places as required in line with the projected demand described in the strategy and fund the associated expenditure. As such the financial profile includes provision against this risk totalling £34.5m (with the caveats about cost estimation)
 - Provision for an additional Phase 2 of SEN school places totalling £12.05m is included in the profile. There is no change in the stated requirement for SEN places (a further 48 places required) however as the council is experiencing an increase in the demand for school places generally this has also generated an increase in demand for SEN school places beyond currently stated requirements. As such there is risk associated with the sufficiency of this provision.
 - Provision for an additional Phase 4 of Permanent Primary expansion of 4FE at a forecast cost of £17.2m.
 - Capitalisation of Project Team costs totalling £4.2m to 2020/21.

- 3.20 Actual expenditure and commitments forecast in line with the requirements of the School Places Strategy 2014/18 therefore totals £204.37m.
- 3.21 The Financial Profile includes the following assumptions:
- Costs included for Byron Court, Oakington Manor and Leopold Gwenneth Rickus as described above
 - A reduction in the cost allowed for the Malorees Infant and Junior project to reflect an expansion by 1FE. The last reported budget included a capital allowance for a 2FE expansion as the previously agreed strategy had shown a 1-2FE expansion at Malorees. The Governing Bodies have now agreed to consult on a 1FE expansion.
 - The Financial Profile includes a provision of £15.2m for delivery of the Phase 3 schemes to reflect additional forecast costs arising from the challenges associated with an increase in construction market activity, with cost estimates increased by 10-15% on similar project costs in the Phase 2 Programme as noted in paragraph 3.2, Revised costs for Phase 2 projects where these have been approved through the change control process.
 - Final costs for the Temporary School Expansion 2013/14 Programme which is now formally closed.
 - Final forecast costs for the Temporary School Expansion 2014/15 Programme which is due to be formally closed in February 2014 (works are complete)
 - Indicative costs for contributions to the Priority School Building Programme projects at Copland and Alperton Secondary Schools as are legal costs arising from earlier school expansion projects.
 - Additional funding from school contributions and retained TCF funding (that was not previously shown) are now included in secured funding
 - There is potential additional S106 funding totalling £4.83m for school expansions which is currently considered as unsecured funding as this is subject to Member approval of a separate Cabinet Report.
- 3.22 Officers continue to monitor regularly the sufficiency of school places against the number of applications received each week. Revised pupil projections are expected from the Greater London Authority in January 2015 and officers intend to review these in detail against historical local trends to make sensible projections of demand for the 2015/16 academic year. Revised projections will be reviewed against actual and potential capacity and reported to Members in April 2015, with proposals for approval if required. Any proposals at that time will include a review of corporate buildings currently in use for education purposes and the requirements for that to continue or otherwise. No assumptions for potential costs of additional temporary school places for the 2015/16 academic year have been made in this financial profile.

Criteria for Developing School Expansion Projects

- 3.23 The Revised School Place Planning Strategy 2014-2018 includes the following principle:

Principle 7: We will expect expanded and re-structured schools generally to meet government guidance on space standards but be prepared to consider innovative design solutions to achieve this.

Whilst this principle and the current government guidance underpins the council's work with schools on school expansion capital projects, in reality the outcome of this looks different at each school. This results from the individual circumstances of each school in respect of the following:

- size and nature of the school site e.g. amount of existing playing fields
- position of school within its locality e.g. location within dense residential area
- size of existing school buildings against current guidance e.g. availability of additional spaces not currently used for general classroom teaching
- suitability of existing school buildings e.g. co-location of nursery and reception to form a combined foundation stage unit
- current condition of existing school buildings including 'temporary' and standalone buildings e.g. existing standalone dining hall buildings that are beyond their useful life
- school's vision and priorities for maintaining and improving educational outcomes for all children e.g. focus on specialist teaching of practical subjects
- background to the school's engagement in the school expansion programme e.g. Governing Body has agreed to consult on expansion but has residual concerns about the practical impact of changes to the school organisation and physical environment
- logistical requirements for school expansion e.g. temporary accommodation and/or decant facilities required to enable construction
- schools own financial contribution to the expansion project e.g. school has been saving for and planning to undertake an improvement project and combines funds with the expansion project
- requirements for environmental performance e.g. a new building may require BREEAM Excellent, improvements to existing building may require BREEAM Very Good
- the extent to which community use is currently or forecast to be important to the school e.g. it is usually a planning condition that school expansions generate an increased access by the local community to new facilities

3.24 As a result of these individual circumstances, the costs of expansion projects per form of entry can vary significantly. Where the end result of projects can also look different, it is important to clarify how the principles are and will be applied. It is worth noting that Basic Need Capital, the principle source of capital funding for the School Expansion Programme, assumes simple expansion only i.e. a 1FE expansion means 7 additional classrooms are added and that all building work is based on BB103 current design guidance for schools. Essentially, funding is provided as if the expansion was straightforward on a simple site with no additional 'off-site' or 'abnormal' costs.

It is not intended to address condition and/or suitability issues in existing buildings.

- 3.25 Appendix 3 sets out the more detailed approach to delivering this strategic principle, giving examples of what is and is not included in the Brent School Expansion Programme.

4.0 Financial Implications

- 4.1 Since the 2011/12 financial year, the council has received £135.98m Basic Need Capital Grant allocations from central government to provide school places, as follows:

- 2011/12 to 2013/14 Basic Need Grant Received - £91.16m
- 2014/15 to 2016/17 Basic Need Grant Allocated - £40.95m
- 2013/14 Targeted Basic Need Grant Allocated - £3.87m

- 4.2 A further £15.63m has been secured through agreed use of time expired Targetted Capital Fund grant, S106, school and diocesan board contributions and the council's own capital programme, as follows:

- Council Contributions - £2.9m
- Targetted Capital Fund - £2.83m
- School/Diocese Contribution - £1.44m
- Unsupported Borrowing (funded by Dedicated Schools Grant) - £1.3m
- S106 Funding - £5.42m.
- Capital Maintenance Grant (AMP funding) - £1.74m

- 4.3 As the Financial Profile at Appendix 1 demonstrates, there is currently a forecast deficit in secured funding (£151.37m) of £53m to meet the forecast costs of the School Places Strategy at £204.37m. However, there is sufficient secured funding to meet the forecast costs of delivering the Phase 3 Permanent Primary School expansion programme of works recommended for approval.

- 4.4 The gap of £53m has reduced from that previously forecast in September 2014 of £60.07m as a result of the assumptions laid down at paragraph 3.23 above.

- 4.5 The council's ability to fund the forecast gap in secured funding will largely be dependent upon unsecured future allocations of Basic Need Grant funding. Current forecasts for future grant allocations total £29.64m for the remaining period of the Financial Profile. In addition further potential unsecured funding sources include S106 funding of £4.83m subject to Cabinet approval of a separate report on the Development Funds Programme, Quintain S106 Agreement £7.15m triggered based on development progress and a capital receipt of approximately £5m arising from the Stonebridge area regeneration. If this unsecured funding was forthcoming the gap would reduce to £6.38m.

- 4.6 Subject to Cabinet approval of the approach to the allocation of funds received through Community Infrastructure Levy (CIL), a further unsecured funding allocation could be made to the school expansion programme. There is also ongoing work to identify and secure additional funding sources for the future requirements of this programme.
- 4.7 Predicting the future costs of providing school places remains inherently difficult to forecast, particularly as currently construction costs are rising at a rate significantly in excess of inflation. Forecast costs shown in the profile are based on previous feasibility studies and cost estimates. These forecasts will remain under review through design development and will be defined as the planned project budget in full business case approval. The Financial Profile includes a provision of £15.2m for delivery of the Phase 3 schemes to reflect additional forecast costs associated with an increase in construction market activity, with cost estimates increased by 10-15% on similar project costs in the Phase 2 Programme.
- 4.8 In relation to Phase 3 works procurement and as with any procurement process there are significant risks to be managed. This process is proposed as a way of delivering school expansions because the existing process is not delivering good value for money or timely school expansions. For it to operate effectively the council will need to take great care in selecting its contractor for stage one and two, as that contractor, having won the first procurement round, will have exclusive rights to the stage two contracts. The council will have contractual rights not to award stage two contracts, if for example the contractor's stage two proposal exceeds or falls short of specified price measures, but exercising these rights would have implications for programme delivery.
- 4.9 Officers are clear that the proposed procurement arrangement can only work effectively if the Council is prepared to exercise the full contractual rights if required, in order to ensure that the programme remains affordable. It is envisaged that tendered costs will fall within the current capital programme budget, however officers will need to manage the programme within the overall allocation.

5.0 Legal Implications

- 5.1 A licence will be entered into with the Governing Body of Leopold Primary School regarding the use of Gwenneth Rickus Building. The licence would include a user restriction clause stating the building can only be used for the purposes of primary education and should this use cease or demand in the borough reduce then the licence would be terminated. The licence terms will need to be agreed in advance of works commencing.
- 5.2 Any land or building used for school purposes cannot subsequently be disposed of without the Secretary of State's consent unless eight years have elapsed since school use ceased

- 5.3 With schools increasingly being outside local authority control, such that they own their own land, a number of the projects outlined in this report may involve the council managing building projects on land that it does not own. Where necessary, the council will enter into agreements with the school/s which will give the council a licence or lease to build, also recognises the council's project management role and the school's right to review key stages of the works.
- 5.4 The estimated value of the individual contracts for Byron Court is expected to be above the EU Regulations threshold for Works of £4,322,012 and therefore subject to the full application of the EU Regulations. This may also apply to works at Oakington Manor subject to detailed and costed feasibility studies.
- 5.5 The estimated value of all of the contracts is above the council's Standing Orders threshold for High Value Works Contracts of £500,000. For High Value Contracts, the Cabinet must approve the pre-tender considerations set out in paragraph 3.16 above (Standing Order 89) and the inviting of tenders (Standing Order 88).
- 5.6 Once the tendering process is undertaken Officers will report back to the Cabinet in accordance with Contract Standing Orders, explaining the process undertaken in tendering the contracts and recommending award.
- 5.7 The council is proposing to use a two stage award process. EU law prevents the council from holding negotiations with tenderers on price or other aspects of bids prior to award of the contracts. To ensure compliance with EU law, the council must therefore award contracts in respect of both stages of the project at Stage 1 in order to be able to discuss design and price changes in detail and agree a final Contract Sum with one tenderer in respect of each contract. Following agreement or determination of a satisfactory Contract Sum during Stage 1 of each project, the council may, at its discretion, trigger Stage 2 (the main construction phase) by giving the contractor notice that it is required to enter into the main construction phase. If the council decides for financial or other good reason not to proceed to the construction phase with the contractor, the council will not trigger Stage 2 and the parties' relationship will come to an end in accordance with the provisions of the initial appointment - in effect the council is entitled to terminate the contract after Stage 1. In this event officers would report back to Cabinet on the basis to progress the schemes.
- 5.8 The council will observe the full requirements of the EU Regulations in relation to the mandatory minimum 10 calendar standstill period imposed by the EU Regulations before the contracts can be awarded. The requirements include notifying all tenderers in writing of the council's decision to award and providing additional debrief information to unsuccessful tenderers on receipt of a written request. The standstill period provides unsuccessful tenderers with an opportunity to challenge the council's award decision if such challenge is justifiable. However if no challenge or successful challenge is brought during the period, at the end of the standstill period the council can issue a letter of acceptance to the successful tenderers and the contracts may commence.

- 5.9 Should the Strategic Director of Regeneration and Growth, following consultation with the Director of Legal and Procurement and Chief Finance Officer consider that it is more appropriate to use an existing contractors framework or the EFA Regional Contractors Framework for particular projects, it will be necessary to operate the procurement in accordance with the relevant framework rules. The Constitution allows officers to operate a mini-competition under a framework agreement without seeking prior Cabinet approval. As described in the procurement timetable at 3.16 where the contract being procured is a High Value Contract (regardless of the procurement route adopted), Cabinet approval will be sought before the contract can be awarded and the Cabinet therefore has the ability to refuse to award if it is unhappy with Officers use of a framework.
- 5.10 Under sections 13 and 14 of the Education Act 1996 (as amended by the Education Acts 2006 and 2011), a local education authority has a general statutory duty to ensure that there are sufficient school places available to meet the needs of the population in its area. The local authority must promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential. It must also ensure that there are sufficient school places in their area and promote diversity and increase parental choice. To discharge this duty the local authority has to undertake a planning function to ensure that the supply of school places balances the demand for them.
- 5.11 As a contingency, to support the admission to school of children as quickly as possible, the In Year Fair Access Protocol allows for the admission of children over schools' planned admission numbers in the event that a school place is not available. Schools are not required to maintain classes over the planned admission number but revert to the usual admission number when children leave.
- 5.12 Statutory proposals are required for a proposed enlargement of the school premises that would increase the capacity of the school by both more than 30 pupils and 25 per cent or 200 pupils (whichever is the lesser). Proposals may also be required for some cumulative expansions and a review of any other enlargements that were made without the need for statutory proposals would need to be made before determining if statutory proposals would be required.
- 5.13 This means adding those enlargements made:
- in the 5 year period that precedes the proposed expansion date
 - since the last approved statutory proposal to enlarge the school (within this 5 year period)
 - exclude any temporary enlargements (ie. where the enlargement was in place for less than 3 years)
 - add the making permanent of any temporary enlargement.
- 5.14 Under current admissions code children can be admitted above the Published Admission Number (PAN). For community/voluntary controlled schools the LA as admission authority must consult the Governing Body of the school where it proposes to either to increase or keep the same PAN.

- 5.15 Under Section 19 of the Education Act 2006 and School Organisation Regulations the authority can decide to propose an enlargement, follow the statutory process and resolve to do without requiring consent of Governing Body whose redress would be to object to the schools adjudicator.

6.0 Diversity Implications

- 6.1 An Equality Impact Assessment was undertaken for the school place planning strategy. The strategy aims to address equality issues around social disadvantage and disability. This was tested during the consultation period and is reflected as far as possible in the final proposals.

7.0 Staffing/Accommodation Implications (if appropriate)

- 7.1 There are no staffing or accommodation implications for the immediate purpose of this report.

8.0 Public Services (Social Value) Act 2012

- 8.1 Whilst the Public Services (Social Value) Act 2012 ("Social Value Act") does not formally apply to works contracts, Officers have had regard to the ethos of the Social Value Act and the opportunities that significant capital investment in local areas bring to achievement of council objectives on employment and enterprise. The design and build contracts required to deliver this programme will require contractors to work with the council on the employment of new and existing apprentices in all areas of work including professional roles as well as skilled manual positions, the creation of new local jobs and the use of local businesses for the supply of materials and labour. There will be measurable targets within these contracts that will be regularly monitored.

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