



Executive
19 September 2012

**Report from the Director of
Regeneration & Major Projects**

Wards affected:
Tokyngton

Wembley School Site

1.0 Summary

The council has secured a possible site for a new primary school in the Wembley Stadium area as a consequence of a S106 planning obligation. The site is currently in industrial use but could be used in the medium term for a primary school. The owners of the site have offered either the site to be taken now or a cash sum to put towards new school provision. The council have produced an outline agreement with Quintain Estates for the school land and recommend its acquisition by the council on the terms set out in the report.

2.0 Recommendations

That Executive:

- 2.1 Approve the acquisition of the Fulton Road site as a future school site subject to any necessary environmental investigation;
- 2.2 Instruct officers to prepare legal documents for the transfer of the land based on the principles set out in paragraph 3.8 of this report; and
- 2.3 Delegate the exact terms of that agreement to the Director of Regeneration Major Projects/ Assistant Director, Property and Asset Management

3.0 Background

- 3.1 In November 2011 the council approved a development by Quintain Estates and Development (QED) for 130,000m² of mixed development, including

1300 new homes, on the land around the Civic centre. This application is known as the NW Lands application. This application was subject to a S106 Planning Obligation that required the provision of land for a primary school or a contribution towards its provision. The S106 was signed in December 2011 and the permission issued. Officers then spent some time negotiating the detail of the possible land deal identifying the potential school site in Fulton Road, currently the site of the Wembley Industrial estate (map of site set out in Appendix 1). The larger hatched area sets out the boundary of the site. The triangle of land to the north can be used as a shared vehicular access onto the site, e.g. for visitor or staff parking should it be required.

3.2 The council now has two options.

Option 1

3.3 The council receives two payments:

£1.25m in 2013/14

£1.25m in 2014/15

All payments and any interest earned must be put towards education provision in the Wembley area.

Option 2

3.4 The council has a year from signature of signing the S106 (i.e. December 2012) to enter into an option to 'purchase' the Wembley Industrial estate site and /or within three months purchase the site. If option 2 is not exercised, then option 1 becomes the default and payments will be made at the appropriate times. Because the Fulton Road site has the same notional value as the payments then the land is effectively transferred at 'nil' value, i.e. no cost to the council.

The Wembley Industrial site, Fulton Road, Wembley

3.5 The Wembley Industrial site on Fulton Road lies next to the Wembley Retail Park on Engineers Way. While this may not at first sight be the most pre-possessing of sites for a junior school it could over time become a reasonable school site. This is for the following reasons

1. At 0.4ha this is a reasonable site for a two form entry primary school

2. While it is surrounded by industrial and retail uses the council's long term aim as set out in the draft Wembley Area Action Plan is to convert these uses into mixed use developments with a large element of residential use into which the school site will fit.

3. Quintain presented sketches of possible school designs that showed how the school could fit on site and how it could be so positioned to shield the play areas from the road traffic on Fulton Way.

4. QED also propose to redevelop the edge of the retail park for different retail uses. This side of the retail park is vacant and they have secured permission from the council to let the site to non-bulky goods uses (i.e. standard retail uses) but on condition that the end of the retail unit closest to Engineers Way is cut back.

5. This allows parents to access the potential school site from the retail park and allows pick up and drop off from the retail car park.

6. Also in the longer term the retail park will be replaced by housing and a park along side Engineers way that will get a much better outlook for the school.

Details of the school land deal

3.6 Because the Wembley Industrial site is still occupied the nature of the potential deal for the site is complex. The main features of the land deal are set out below

3.7 The freehold of the site would be transferred to the council and the council will have from the date of transfer to 2030 to construct a school. If a school has not been constructed by 2030 the land would be returned to QED. There are five industrial units, four of which are currently occupied.

3.8 The main features of the Land deal are:

- (i) Any rent on the existing units accrue to the council but must be used on school provision-this includes any interest on the rental income
- (ii) The council can deduct a 10% fee from rents as a management charge
- (iii) The council can pay for any repairs and improvements of the industrial estate out of the rents. All other outgoings such as rates, utilities etc. are also included.
- (iv) The council will be responsible for terminating leases and compensating tenants where this is due. Statutory compensation would be an allowable expense.
- (v) If the council so chooses it can clear the industrial site and it can develop the site for affordable housing as long as it uses all proceeds to provide school places in the Wembley area.
- (vi) If the land is sold during or at the end of the 2030 term, any increase in value over £2.5m (taking into account the effects of the Cost Price Index-CPI) would be shared equally with Quintain Estates, allowing for deducted costs as set out above.

3.9 The five industrial units are in a 1980's constructed portal frame clad industrial shed which is reasonable condition. The council will rely on rental income from the tenants of those units to build a fund for a new school. At the very least this rental income should ensure the council does not have to pay

business rates on empty units not covered by rental income. An analysis of the occupants' ability to meet their rental costs and the process by which the council could acquire such units is set out in Appendix 2. This information relates to financial and business information and is not for publication for the reasons set out at the beginning of the report.

- 3.10 The council clearly has a significant timeframe in which to bring forward a school site, anytime between now and 2030. It is expected that the council would consider bringing forward a school site after 2017 when there is a break in the industrial leases. This would fit in with the growth in the Wembley population as QED among others are likely to start to complete the next phases of new housing, the population requiring new schooling provision. These need not be the case. Elsewhere on this Agenda is a report setting out the severe shortage of primary school places. Control of the site would allow the council the potential to bring any school development ahead of the 2017 break although a higher level of compensation may be payable.
- 3.11 At the Executive meeting of 20th August Members approved a strategy and a programme to tackle the current severe shortage of primary school places. This proposed acquisition of land is in alignment with this strategy. The council will also secure additional S106 payments for education as a result of the QED Wembley Stage 1 s106 planning obligation. This will provide £9m in the following years (£2m in 2014, £2m in 2015 and £2.5m in 2021 and £3.4m in 2022). However all of the £9m could be drawn down for the construction of a school on the Fulton Road site but not before 2017. This would allow the construction of any school secured on the Fulton Road land through the NW lands S106. Central government have made it clear that new schools must be either academies or free schools but the council is likely to need to provide only land, the school being centrally funded. However the council has a period to 2030 in which to build a school on terms which it may support.

Benefits of the school land rather than cash option

- 3.12 The most difficult part of any new school provision is securing the land for a new school. This land provides the council with the most options as it can either bring a school forward early to help meet short term primary school demands or in the longer term to meet demands arising from population growth associated with new housing in Wembley. The council has the option of cash payments but this would not be sufficient to secure a similar sized site in Wembley and even less so into the future as land prices climb out of recession. There are also limited opportunities to expand existing primary schools and new school sites will in all probability be needed. The further benefit of taking the school site rather than cash is that the council is not wedded to provide a school on that site and will still have the option of developing another site and using the proceeds of the industrial site sale to fund it.

- 3.13 There are risks associated with transfer of the site to the council if the current occupiers and businesses cannot pay rent then the council will incur rates and repair liabilities. There is no revenue provision for any loss incurred. However on balance it is judged that the risks of the council having to incur costs rather than receive the positive benefits of rental income are very low. In any case the council can cover any losses by selling the site for affordable housing as long as any surpluses are used for new school provision in the Wembley area.

Option to Purchase vs Purchase

- 3.14 The NW Lands S106 allowed the council an opportunity to take an option on the land (up to December 2012) while it carried out due diligence and could then decide to exercise the option or decline it. This would allow the council favoured status and no one else could purchase the land. Because the council has carried out this due diligence there is little point in securing an option and your officers recommendation is that we move to acquiring the land following the Heads of Terms agreed between Quintain and the Council. The general principles of those Heads of terms are set out in the report above.

Contamination

- 3.15 A desk top study indicates that the risk of contamination is medium to high and that further intrusive investigations should be carried out. There is no reason why the land could not be used as a school although some land remediation may be required. The risk is however with the council if it purchases the site. The council will undertake a full environmental assessment prior to purchase of the site.

4.0 Financial Implications

- 4.1 The alternative cash value of the land is £2.5m however the actual land is valued in excess of £3m in its current industrial use. The land can also be used as affordable housing as an alternative and the value of this use is also in excess of £3m. This would indicate that securing the land could be more valuable to the council than the cash contributions offered by Quintain, accepting that the council share the increase in land value with Quintain if the site is sold. In any case the costs of acquiring an alternative site for a school is likely to be in excess of £2.5m.
- 4.2 In terms of ownership from the date of acquisition to 2017 Officers have undertaken an financial analysis to understand the ownership liabilities, headlines are captured in appendix 2 of this report. Overall we expect that rental income and expense should break even. But in this difficult economic climate this is not guaranteed. And the council always retains a further option of selling the site for affordable housing, with or without any remaining tenants to defray possible costs.

5.0 Legal Implications

5.1 The Council has power to acquire land by virtue of section 120 Local Government Act 1972.

5.2 Based upon lease documentation three tenants inclusive of the electricity substation are protected under the 1954 Landlord and Tenant Act. The two protected tenants of the industrial units would need to be compensated, if the council redeveloped the site. The compensation can be taken out of any rental funds that may have accumulated.

6.0 Diversity Implications

The location of secondary schools has been the subject of diversity concerns because their location has significant wider impacts. The location of primary schools however is much more of a local issue attending to a local catchment. The location of the Fulton Road site is intended to meet future population needs. In that instance the potential impacts of its location is not fully known because the local population will come as the development in the Wembley area comes forward .

An Impact Needs / Requirement Assessment has been undertaken and is available as a background paper to this report.

7.0 Staffing/Accommodation Implications (if appropriate)

New schools staffing is funded by central government.

Background Papers

Initial sketch plan options for two form entry primary school on Fulton Road site, 2011

Draft Wembley Area Action Plan, approved for consultation, July 2012

Impact Needs / Requirement Assessment, August 2012

Contact Officers

Dave.Carroll@brent.gov.uk, Head of New Initiatives



Ordnance Survey © Crown Copyright 2011. All rights reserved.
 Licence number 10002049. Plotted Scale - 1:1250

Scale 1:1250 at A4