

Cabinet

12 September 22

Report from the Corporate Director of Children and Young People and Corporate Director Finance and Resources

The Future of Islamia Primary School

Wards Affected:	Queens Park, Preston	
Key or Non-Key Decision:	Key	
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open	
No. of Appendices:	Part Exempt – This report refers to legal Implications that have been classified as exempt pursuant to paragraph 5 of Schedule 12A of the Local Government Act 1972: "Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
Background Papers:	None	
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1.0 Purpose of the Report

1.1 This report sets out proposals to relocate Islamia Primary School. It seeks approval for a capital project business case to develop the former Strathcona school site into a two-form entry (2FE) school for Islamia Primary School, subject to statutory consultation to relocate the school. It sets out the options reviewed, the capital project requirements and the statutory consultation needed to deliver the project.

2.0 Recommendation(s)

Cabinet is asked to:

- 2.1 note the historical context and background set out in this report.
- 2.2 note that the Yusuf Islam Foundation has issued eviction notices to its Voluntary Aided Islamia Primary School and that the future options for the school are for the school to either relocate or close.
- 2.3 note the proposal to relocate Islamia Primary School to the Strathcona site as a 2FE school and agree to allocate up to £8.0m capital towards the total project costs of £10.0m, noting that the preferred option is estimated to cost £9.11m.
- 2.4 approve the delegation of authority to agree pre-tender considerations, procure and award the necessary works contracts valued in excess of £5m to the Corporate Director, Finance and Resources, in consultation with the Cabinet Member for Children, Young People and Schools and the Cabinet Member for Finance, Resources and Reform.
- 2.5 note that if the school relocated to the Strathcona school site, the site could be transferred into the name of the Yusuf Islam Foundation who would be required to hold the site for the benefit of the Islamia Primary School. Further details in terms of ownership would be set out in a Trust Deed. This would ensure that the primary school would be protected from eviction in future.
- 2.6 note that a statutory consultation process to allow the relocation of Islamia Primary School as a 2FE Primary School to the Strathcona site would need to be undertaken and that the Governing Board would be responsible for making this proposal through statutory consultation.
- 2.7 acknowledge that should the Strathcona site be used for Islamia Primary School then an alternative site would be required to deliver Post-16 SEND provision.

3.0 **Detail**

Islamia Primary School Background

3.1 Islamia Primary School (IPS) was established as an independent school in 1983 by the Islamia Schools Trust. The school was granted public funded status as

- a Grant Maintained school (GM) and then Voluntary Aided status in 1998. The Salusbury Road school site and buildings are owned by the Yusuf Islam Foundation, which purchased these assets from Brent Council in March 1990. The buildings also house the Islamia Girls School, an independent fee paying school established by the Islamia Schools Trust, which became incorporated with the Yusuf Islam Foundation in 2017.
- 3.2 IPS opened as a 1 Form Entry (FE) school. In 2006 when the Trustees of the near-by Avenue School, another Voluntary Aided Muslim faith primary school, decided to close this primary school, the Governing Board of IPS agreed to publish proposals to accommodate former Avenue pupils and look to formally expand in the course of development of a new-build 2FE primary school on the Salusbury Road site. This has not however progressed. Although there has been no statutory consultation to formalise the school's intake, the school has been operating as a 2FE school since 2010.
- 3.3 The school's main site continues to be situated on the Salusbury Road site, with the school also occupying the top floors of Winkworth Hall on Chevening Road via a lease agreement with the Council, which was a temporary solution to meet the school's accommodation needs.
- 3.4 The Council has undertaken significant and extensive efforts since 2015 to build a new primary school building on the existing Salusbury Road site. The Council identified capital funding to the sum of £10.01m, including ring fenced funding secured from the Education Skills and Funding Agency (ESFA) of £2.8m, to meet the then demand for primary school places. Design development for the new-build school was completed in 2015, funded from the ESFA contribution. The Foundation decided not to proceed with these plans and for the past seven years has not responded positively to the Council's attempts to revisit the build proposals.
- 3.5 During July and October 2020, the Yusuf Islam Foundation as owners of the Salusbury Road site, served notice on IPS and the Council. During January 2022, the Foundation served new eviction notices on IPS and the Council. The notices require IPS to vacate the premises they currently occupy on Salusbury Road only by 31 July 2022 and 31 July 2023 respectively.
- 3.6 IPS is one of Brent's most popular schools as the only state Muslim school in the borough. The school has 420 pupils on roll and each year the 60 Reception places are usually offered to families who applied for the school as their first preference. The school has a high sibling factor with over 80% of Reception places in September 2021 and 52% of Reception places in September 2022 offered to siblings. The majority of pupils are from Brent. The numbers of out-of-borough children offered are historically low because in recent years the school operated a catchment area which was set as within the Brent boundary. In 2020 the school removed the catchment area from its Admission Policy. As a result, the number of out of borough children has increased over the past three years. For the 2022 Reception intake, 13 of 60 Reception places have been offered to children from other boroughs, compared to 1 out of 60 in 2019, who was the child of a staff member.

3.7 The initial proposal to formally expand the school in a permanent 2FE building on the Salusbury Road site was made at a time when there was a shortfall of primary school places across the borough in the context of unprecedented growth in demand for primary school places. The current position is a very different one. The forecasts in the refresh of the School Place Planning Strategy agreed by Cabinet in November 2021 show a reduction in demand from 2017 onwards (Graph 1). Due to falling demand, there is now a significant surplus of places across the borough (16% of capacity across all year groups in 2021/22). The latest forecasts for Brent provided by the Greater London Authority in early June indicate that forecast demand could reduce further.

Graph 1: Primary numbers on roll and projections as at January each year

The Future of Islamia Primary School

- 3.8 Given the eviction notices from the Yusuf Islam Foundation and the Foundation's intent for the school to leave its current site by July 2024, there are two options for the future of the school:
 - For the school to relocate to a new site
 - For the school to close with pupils on roll moving to other local schools with spare places
- 3.9 As a Voluntary Aided school, Brent Council has a duty to maintain IPS, which would include considering alternative site options. IPS is a popular school and the only Islamic Primary School in the borough. For this reason, since receiving the notices the Council has been working with the Governing Board of IPS and the Yusuf Islam Foundation to identify an alternative site for the school.
- 3.10 The Foundation has agreed to withdraw the eviction notices and allow IPS to remain at Salusbury Road until July 2024 as a condition of a legal agreement between the Council and the Yusuf Islam Foundation confirming that IPS will vacate the premises by this date.
- 3.11 The Council has undertaken a comprehensive site search across the borough for an alternative site for the school. The only site that has been identified that could be available by July 2024 is the Strathcona site, Strathcona Road,

Wembley, HA9 8QW that was used for primary provision by Roe Green Infant School until July 2022. The site was proposed to the Yusuf Islam Foundation and the Governing Board of IPS, who following a site visit, agreed that it could provide a suitable alternative for the school. In 2021 officers commissioned technical consultants to undertake a feasibility study into providing a 2FE Primary School on the Strathcona site. The feasibility study looked at potential facilities, adjacencies of the facilities, costs, delivery programmes and risks with the proposed site.

3.12 A parent of children who attend IPS put a petition on the Council's e-petition portal between 13 July and 18 August 2022 that called for the new school in South Kilburn that will be built as part of the South Kilburn Regeneration Scheme to be allocated to IPS. The petition had 509 signatories. The new South Kilburn School is a key part of the infrastructure of the South Kilburn Regeneration Scheme and will provide a community school that will provide primary provision for families of all faiths within the area. The school is replacing Carlton Vale Infant School and Kilburn Park Junior School and the sites of these schools will be used to provide new housing and green space, respectively. The schools have been working with a design team over the past two years to develop the project to meet the school and local community's needs. The new South Kilburn School will not be available until September 2026, whereas the Foundation is requiring IPS to vacate its current site by the end of July 2024.

4. Capital Project Detail: Options to relocate IPS to the Strathcona Site

- 4.1 During October 2019, Cabinet approved the closure of the Roe Green Infant School provision on the Strathcona site (one form entry provision 1FE) by July 2022. During the public consultation phase, it was agreed that in considering the future use of the site, officers would explore developing options for using the site to meet the demand for young people aged 16–25 years old with special educational needs (Post-16 SEND). An alternative site would need to be identified for Post-16 SEND provision in the borough should the site be used for IPS.
- 4.2 The relocation of IPS to the Strathcona site would:
 - 1. Help meet the Council's statutory duty to provide a diversity of school places for all Brent pupils applying to the Council for a school place
 - 2. Provide a new site for IPS to sustain its Ofsted rating of "Good"
 - 3. Ensure that children are taught in a high quality provision setting.

It would therefore meet the following Council strategic objectives:

- 1. Every Opportunity to Succeed supporting the continued improvement of early years provision and schools
- Strong Foundations building services around our residents and their needs
- 4.3 The building options officers have reviewed alongside the technical consultants are listed below:

- Demolition of existing buildings on the Strathcona site and provision of a new-build two-storey 2FE School
- 2. Demolition of existing buildings on the Strathcona site and provision of a new-build three-storey 2FE School
- 3. Part demolition, part refurbishment of the remaining buildings and a new build for required additional accommodation
- 4. Retain and refurbish all buildings on the Strathcona site and build a new block to meet 2FE accommodation requirements
- 5. Maintain current accommodation on the Strathcona site for a 1FE primary school and provide bulge accommodation for the additional 1FE on roll to allow these pupils to move through the school.
- 4.4 If the school was to relocate to the Strathcona site as a 2FE school, removing the existing buildings and providing a purpose built new school would deliver appropriately sized facilities and adjacencies of linked accommodation. A two-storey option is better suited to a primary school setting than a three-storey building in line with Department for Education (DfE) guidance.
- 4.5 The timescale, however, within which the Foundation has required IPS to vacate the Salusbury Road site (by July 2024) presents a significant challenge to the delivery of a new build option. The Strathcona site building is currently a 1FE school, which has been well maintained and is in good condition. To retain the existing building and provide additional facilities for IPS to operate as a 2FE school (Option 4) would be less of a delivery risk within the timescales set by the Foundation. Option 4 would also mitigate the risk of pupils needing to be housed in temporary accommodation (that has not been identified) if there was delay to a completely new build project, as there would only be a need to build sufficient accommodation for up to 7 classrooms.
- Given the number of spare places across the borough, consideration has been given to proposals to reduce the size of IPS. Despite the school being popular, until consultation has been undertaken on the relocation, it is not clear how many parents will want their children to attend the school on the Strathcona site. If during the consultation period a significant number of parents indicate that they would prefer to transfer their children to alternative schools rather than move to the Strathcona site, indicating reduced demand for the provision, then this option could be considered. The Strathcona site is available from August 2022 and would not require any substantial works to allow use as a 1FE building. Option 5 in paragraph 4.3 would provide temporary accommodation on the Strathcona site for seven years to allow current pupils to move through the school whilst only allowing 30 pupils (1FE) to start Reception each year. After this time, the school would remain as a 1FE school and the temporary accommodation would be removed.
- 4.7 Option 4 is the recommended option. Expanding the facilities on the Strathcona site would provide quality facilities for a 2FE primary school and create a learning environment which would support IPS to deliver a good education for pupils and opportunities that will support their working life.

4.8 Table 1 provides an indicative timetable for a partial rebuild project. In order to meet the Salusbury site vacation date of July 2024, which is very tight, some milestones would need to progress prior to the completion of the statutory consultation process. This would result in expenditure being incurred at risk during this period. To mitigate building programme delays, work has already commenced on the appointment of technical consultants in advance of Cabinet approval. Only in the circumstance of unforeseen events outside of the Council's control, has the Foundation agreed that IPS could remain on its current site until 2 January 2025.

Table 1: Indicative Project Timeline

Milestone	Start	Finish
Cabinet Business Case approval (including permission to consult on relocation)	September 2022	September 2022
Technical Consultancy Procurement and appointment	August 2022	October 2022
Contractor Procurement	November 2022	January 2023
Design Work	January 2023	July 2023
Statutory Consultation on Relocation	October 2022	December 2022
Planning Application	June 2023	September 2023
Report on consultation	February 2023	February 2023
Representation Period	February 2023	March 2023
Cabinet approval of consultation outcome	May 2023	May 2023
Construction works	October 2023	August 2024
Practical Completion	August 2024	August 2024
IPS move into Strathcona	August 2024	August 2024
School opens	September 2024	September 2024

- 4.9 The construction contract would be expected to deliver employment, work experience and apprenticeships for local people in delivering the new school.
- 4.10 Table 2 below identifies the key risks to the project. A detailed risks and issues register would be created and maintained throughout the project's delivery timeframe.

Table 2: Key Risks

Risk/issue description (incl. impact)	Planned mitigation or resolution	Owner
Brexit/Covid/Ukrainian conflict impacts	Early engagement with suppliers	Head of Capital
on construction industry (labour	Early orders to commit to resources	Programmes
resources, materials, deliveries)	Long-stop eviction date of 2	
	January 2025 agreed with the	
	Foundation	
Increased demand within the	Early engagement with potential	Head of Capital
construction industry meaning less	suppliers	Programmes
interest in opportunities (consultants and	Make contract attractive to market	
contractors)		

Risk/issue description (incl. impact)	Planned mitigation or resolution	Owner
Increased demand within the	Robust cost management	Head of Capital
construction industry meaning price	Contingency figures within budget	Programmes
increases above inflation leading to	lines	
unaffordable projects and calls on	Economies of scale applied to	
additional financial contributions	procurement	
Local resident engagement/Planning	Pre-application advice with	Head of Capital
approvals not granted	planners	Programmes
	Resident engagement workshop(s)	
	prior to planning submission	
Cita como con identificación ificant icono	High quality designs	Lland of Conital
Site surveys identify significant issues with ground conditions – risks around	Detailed surveys to understand site constraints	Head of Capital Programmes
cost increase and programme delay	Engagement with stakeholders to	Flogrammes
cost increase and programme delay	propose solutions	
Statutory approvals for the school are	Governing body and Foundation	School
not successful or subject to delay	members to garner support from	Governing
The cooperation caspect to acia;	school community	Board/Yusuf
	Appropriate consultation to inform	Islam
	proposals.	Foundation
		Operational
		Director,
		Safeguarding,
		Performance
		and Strategy

5.0 Statutory Consultation

- 5.1 The relocation of IPS would require the statutory process for making a prescribed change at a maintained school to be followed. This involves informal consultation followed by a formal statutory representation period. As a Voluntary Aided school, the Governing Board would be responsible for the proposal and complying with each step of the statutory process. The Local Authority is the decision maker and Cabinet would need to either agree or reject the proposal within two calendar months of the end of the representation period.
- 5.2 The Council would support the Governing Board in delivering the statutory consultation process. The Governing Board would need to draft a consultation document that sets out the case for the relocation and alternative options and will need to engage with all stakeholders in both Queen's Park and Preston wards.
- 5.3 It is proposed that the statutory process would commence with informal consultation in autumn 2022 and the statutory representation period would be completed by the end of the spring term in 2023. This would allow the formal proposal to relocate the school to be submitted to Cabinet for determination in May 2023. This timeline is included in Table 2 alongside the capital delivery timeline.

6.0 Financial Implications

6.1 Table 3 below includes the high level, indicative construction costs for the options listed in paragraph 4.3 above. It should be noted these are based on

early feasibility work and may require change as designs develop and more information is known.

Table 3: Indicative Capital Costs for all options

Option	Cost (£m)
Two-storey new build 2FE school	10.00
2. Three-storey new build 2FE school	9.96
3. Part demolition, refurbish the remaining buildings and new build	9.71
4. Retain and refurbish all buildings at Strathcona and build new block	9.11
5. Move into Strathcona buildings as a 1FE schools, with 1FE	1.54
temporary accommodation provided on site to manage a gradual	
reduction in pupils	

- 6.2 The expected capital costs for the preferred option are in Table 4 below. It is proposed that this is funded by a combination of remaining basic need, legacy Targeted Capital Funding (TCF) and council borrowing with the potential for additional contributions from Basic Need funding should the council receive any in future years.
- £2.8m of TCF was transferred from IPS to Brent by the DfE in 2012 in order to manage and deliver the IPS new build following the school's unsuccessful attempt at delivering the project. As detailed in paragraph 3.4, the design of the Salusbury Road site expansion was funded using £200K of the TCF and therefore £2.6m remains. The Council has requested from the DfE that this funding is carried forward across financial years under the acceptance this project is still a vital one for the school and its pupils. Should the DfE continue to allow the council to carry this funding forward, then it would be used toward this project.
- 6.4 There is currently £2m of unallocated funding available in the Basic Need grant following Cabinet approval of the SEND Capital Programme Business Case in January 2022. Therefore, assuming project funding includes the £2.6m TCF from DfE and £2m basic need grant, £4.51m is required from alternative funds to deliver the preferred option (Option 4). Council borrowing has been identified and subject to Cabinet approval could be used for this project. Borrowing £4.51m would result in an additional revenue cost of circa £0.3m per annum. This would need to be reflected through the budget setting process for revenue.
- 6.5 If the DfE do not allow the council to use the TCF funding for this project, then £7.11m would be required through Council borrowing. The additional revenue cost of borrowing £7.11m would be circa £0.45m per annum. This would need to be reflected through the budget setting process for revenue.
- Noting that Option 4 is anticipated to cost £9.11m (Table 4), at this stage in the project Cabinet is asked to agree to allocate up to the maximum capital funding that would be required to deliver all options, which is up to £8.0m capital towards the maximum total project costs of £10.0m.

Table 4: Indicative Project Costs for option 4 (recommended)

Element	Cost (£m)
Construction	6.07
Fees/Professional Services	0.91
Surveys	0.2
Statutory Costs	0.1
FF&E and ICT	1.0
Sub-total	8.28
Contingency	0.82
Total	9.11

- 6.7 The total cost of the project, including contingency, works out at £21,691 per place. This compares favourably to the mean cost per place of £23,886 from the latest National School Delivery Cost Benchmarking Report for new build primary schools.
- 6.8 Project contingency is set at a level of 10%. This reflects the early stages of the project as well as current cost uncertainty in the construction industry due to the current impact of resource and material availability.
- 6.9 The DfE expects Voluntary Aided bodies to contribute towards capital works that improve their school buildings at a rate of 10% of total costs. Conversations would need to be held with the Yusuf Islam Foundation and IPS about a contribution towards new facilities. No assumptions about a contribution have been included in the costs above.

7.0 Legal Implications

Agreement and Deed of Surrender

- 7.1 On 8 July and 23 October 2020 and, more recently on 19 January 2022, the Foundation served eviction notices on IPS and the Council. The notices were served under section 30 of the School Standards and Framework Act 1998 (SSFA) and section 25 of the Landlord and Tenant Act 1954 (LTA). They require IPS to vacate the premises they currently occupy at 129 Salusbury Road by "31 July 2022 or the end of academic year 2021/22 if later" (in the case of the July 2020 and January 2022 notices) and by "31 July 2023 or the end of academic year 2022/23 if later" (in the case of the October 2020 notice).
- 7.2 The Council has resisted the validity of the notices since receiving them and has repeatedly asked the Foundation to withdraw them so that the Council, the Foundation and IPS can concentrate their efforts on reaching an accommodation which suits all involved. The Foundation has agreed to withdraw the notices on the condition that the Council, the Yusuf Islam Foundation and IPS entered into an agreement to surrender and deed of surrender from the Salusbury Road site. These agreements, which are subject to final negotiations, are based on the premise that:
 - the Foundation withdraws and/or does not seek to enforce the eviction notices;

- b) Providing the statutory procedures (as required by SSFA 1998) once concluded confirm it is feasible to do so, the School will be relocated to a new site:
- c) IPS will be able to remain in situ whilst the identified site, the Strathcona site, is prepared for the relocation;
- d) IPS will vacate the Foundation's Salusbury Road premises by 31 July 2024
- e) A long-stop date of 1 January 2025 is in place should there be any unforeseen delay (for example a delay in any building works);
- f) Any new site will be transferred to trustees prior to the School taking up occupation in the new site. Officers will need to negotiate and agree Heads of Terms setting out the main terms the parties agree in respect of the proposed transfer of Council owned land for any new site earmarked for the School to occupy.

Further confidential legal advice can be found in Appendix A.

The relocation of Islamia Primary School

- 7.3 The legal implications associated with the Council's statutory duty to ensure that there are sufficient school places available to meet the needs of the local population were set out in the School Place Planning Strategy 2019-23.
- 7.4 There is a requirement to follow statutory processes for the relocation of the school in line with DfE Guidance on Prescribed Changes to Maintained Schools. The progression of the Council's capital programme will be dependent on approval of the relocation. There is a requirement to follow statutory processes in line with DfE Guidance on Opening and Closing Maintained Schools should a decision be taken not to retain the school.
- 7.5 The Council will be responsible for obtaining all necessary approvals to undertake the capital projects including planning approval, approval to development on playing fields (where appropriate) from DfE pursuant to Section 77 of the Schools Standards and Framework Act 1998 and building control approval. Where a proposed disposal is not authorised under a general consent the Secretary of State's consent may be needed and should be applied for.
- 7.6 This project will require the procurement of low, medium and high services and works contracts. All procurement will be conducted in accordance with Contract Standing Orders and the Public Contract Regulations 2015.
- 7.7 The Council currently owns the Strathcona site. Any non-council school utilising the site will need to enter into a lease or licence with the council to operate from the proposed site. The Heads of Terms between the Council and IPS should be agreed as soon as practicable.
- 7.8 Paragraph 11.8 of Part 3 of the Constitution makes it clear that nothing should prevent the Corporate Director, Finance and Resources from acquiring or disposing of freehold land or acquiring, granting or disposing of leasehold land (for any term of years) or from entering into licences and easements in respect

of land and buildings so long as doing so is (or would be) in accordance with the Academies Act 2010 or any other education legislation, regulation, order, direction, circular or guidance.

8.0 Equality Implications

- 8.1 The council must in the exercise of its functions, have due regard to the need to:
 - a) eliminate discrimination, harassment and victimisation
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, pursuant to s149 Equality Act 2010. This is known as the Public Sector Equality Duty.
- 8.2 Under the Public Sector Equality Duty, having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that is connected to that characteristic.
- 8.3 The Public Sector Equality Duty covers the following nine protected characteristics: age, disability, marriage and civil partnership, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.4 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary. The proposals set out in this report aim to ensure that there are sufficient and suitable school places for Brent children.
- 8.5 The Governing Board will be expected to undertake an equalities impact analysis as part of the formal relocation consultation process. Any concerns about the equality implications of this proposal would need to be considered during the informal and formal consultation processes.

9.0 Consultation with Ward Members and Stakeholders

- 9.1 The Leader of the Council and the former Lead Member for Schools, Employment and Skills were briefed on developments on this project including the notices from the Yusuf Islam Foundation and capital project delivery options. The Lead Member for Children, Young People and Schools has been briefed on the project.
- 9.2 Officers met on 5 April 2022 with Preston Ward members and the Lead Member for Schools, Employment and Skills to discuss transport options for the Strathcona site with the intention of making school related journeys (i.e. school

- drop off and pick up) car free. Officers met with Queens Park Ward members and the Lead Member for Children, Young People and Schools on 15 July 2022 to brief them on the proposed relocation of IPS.
- 9.3 Queens Park Ward and Preston Ward members will be kept informed as the project progresses and updated on project milestones such as the planning application submission, statutory consultation and any works on site.

10.0 Human Resources/Property Implications (if appropriate)

- 10.1 The Council currently owns the Strathcona site. Any non-council school utilising the site will need to enter into a lease with the council to operate from the proposed site as per paragraph 7.7 above.
- 10.2 The Strathcona site will be vacant from July 2022 and so the council will need to provide site security for approximately 12 months until the contractor took on the site to develop the new school buildings.

Report sign off:

Nigel Chapman
Corporate Director Children and Young People
Minesh Patel
Corporate Director Finance and Resources