



**Executive**  
15<sup>th</sup> January 2007

**Report from the Director of  
Children and Families**

For Action

Wards Affected:  
ALL

**School Places - follow up review of sites and pupil number forecasts**

Forward Plan Ref: C&F-06/07-020

**1.0 Summary**

- 1.1 At their 13<sup>th</sup> November 2006 meeting, the Executive considered the report "A Strategy for the Development of Primary and Secondary Places – Options for Delivering Additional School Places". The report confirmed substantial progress by the Council in the development of schools so that they are able to provide good quality school places for local young people across all parts of the Borough.
- 1.2 The Executive requested a review of the forecast of the need for school places in the report. The Executive also requested that officers examine the feasibility of developing the Gwenneth Rickus building as a secondary school by re-locating the Teachers' Centre and amalgamating or incorporating adjacent land holdings.
- 1.3 This report provides a summary review of forecast pupil numbers. The review confirms a need for a minimum of 15FE of secondary places at Year 7 by 2016 and 7FE of primary places, Year R, by 2016. A full copy of the Review report is available from the office of the Director of Children and Families. It also advises the Executive of the issues to be considered in opting for the siting of a secondary school on the Gwenneth Rickus, Chalkhill temporary Health Centre, Barnhill Road land with the Chalkhill Youth and Community Centre to the East (Poplar Grove) and Wembley Park (Bridge Road) sites.
- 1.4 A Young People's panel was set-up to consider three of the site options. The panel has recommended the Wembley Park Bridge Road site. A summary of the panel's deliberations is included as Attachment 3.

- 1.5 At their meeting of 22<sup>nd</sup> November 2006, the Overview and Scrutiny Committee recommended :
- 1.5.1 That the Children and Families Overview and Scrutiny Committee was in agreement that in addition to expanding existing schools there was a need for a new school in Brent.
- 1.5.2 That based on the evidence before them the Children and Families Overview and Scrutiny Committee asked that the Executive give greater consideration to the Wembley Park (Bridge Road) site for the academy as the Committee held the view that this was the preferred site.
- 1.5.3 That the Executive should give consideration to providing a safeguard with regard to school capacity with the effect that all Brent children should be provided with the choice of going to a Brent school.
- 1.6 Pending the decision by the Council on the siting of the second academy, and in line with the decision, in principle, of the Executive in November 2005, to acquire the site, negotiations have continued between the Council and the owners of the Wembley Park site. Progress on the negotiation is enclosed as a Confidential Attachment 1.
- 1.7 The November 2006 Strategy report outlined the work that had been undertaken during the first six months of the new Executive. It proposed a two stage strategy for the provision of new secondary places by building a new Academy and expanding existing schools and similarly for primary schools. Substantial progress has been made in this period: the DfES has agreed to fund the extra costs of the expansion of Preston Manor High School and consultants are being appointed for the design stage; the Schools Organisation Committee has agreed to the expansion of the John Kelly Schools to be funded from the Building Schools for the Future programme from 2011 onwards and negotiations for the purchase of a site adjacent to the John Kelly Schools are under way; feasibility studies have been carried out for the expansion of Queen's Park School; in the primary sector the Council has secured from developers a site and buildings for a new 2FE primary school; and the contract has been let for the rebuilding and expansion of Wembley Primary School.
- 1.8 Discussions with the DfES have confirmed that the next step in the provision of secondary school places needs to be the provision of an academy for which funding is available. Funding is not available currently for further expansion of schools. A decision on the Academy must be taken in January 2007 in order for the school to be provided by September 2010 and for the commitment in the Council's Children and Young People Plan to be met. An exhaustive review of sites, including a further re-examination requested by the Executive in November 2006 has confirmed that the Wembley Park Bridge Road site is the most suitable and affordable and the only one which is available to meet the 2010 deadline. Discussions are continuing with the DfES on the need for funding for additional secondary places in advance of the Building Schools for the Future (BSF) programme.

## **2.0 Recommendations**

The Executive is recommended to

- 2.1 Note that the additional review of forecast pupil shows a shortfall by 2016 of 15FE Secondary places and 7FE primary places.
- 2.2 Note that whilst the forecast shortfall is based on currently known information, the data will be continually interrogated; any significant changes to the current forecast will be reported both to Executive and the Member Level Strategy Board that the Executive agreed to set-up to oversee the Development Strategy.
- 2.3 Agree that the Academy should be provided on the Wembley Park Bridge Road site.
- 2.4 Note the progress on negotiations of purchase of the land at the Wembley Park site and authorise the Head of Property and Asset Management (former Corporate Property) to acquire the site at or within 10% of the value set out in Attachment 1 (Not for Publication) and to then dispose of the land for the purposes of constructing the academy provided that, having considered the responses to any consultation carried out, he is satisfied that the disposal should proceed.
- 2.5 Note the renewed approach by officers to Government Departments with the view to securing capital investment support as set-out in Paragraphs 3.54 to 3.57.
- 2.6 Agree that consultation begins with schools and other stakeholders based on the report for the Strategy for the Development of schools as approved by the Executive in November 2006, but updated with the revised pupil forecasts.

## **3.0 Detail**

### **Review of Pupil Forecast – Secondary School Places**

#### **The Process**

- 3.1 A review of pupil number forecasts has been established which includes the work of a national expert consultant in forecasting. The terms of reference of the Review Group is enclosed as Attachment 2.
- 3.2 The Review outcomes will be monitored regularly so that trends may be kept under close watch.

### **Review of Pupil Forecast – Secondary School Places**

- 3.3 A review was carried out in March 2005; those figures were updated for the November 2006 Executive using the latest (current) GLA available data;
- 3.4 Based on the GLA adjusted (for example taking account of error rates) figures, the 2005 review pointed to a shortfall of 15FE in Year 7 in 2014.

- 3.5 In November 2006, the GLA projected an increase in Year 7 numbers (fluctuating but with the general trend upwards) from 2870 in 2007 to 2976 in 2014, and 3102 in 2016. This would have resulted in a shortfall of 12 FE in 2014 and 16 FE in 2016. The Review Group has examined these projections and the projections have been re-run taking into account discrepancies found in the birth rate data.
- 3.6 Based on these revised figures there would be a shortfall forecast of **15FE** in 2014, and after minor fluctuation stabilising at **15FE** in 2016.

### **Review of Pupil Forecast- Primary School Places**

- 3.7 GLA figures in November 2005 pointed to forecast shortfall of 9 FE in 2014 including a 5% planning margin.
- 3.8 In drafting the November 2006 report, the GLA forecasts, based on live birth data of 2002, projected an increase of 557 pupils over the 2005 September figures of 2954. This is against a backdrop of capacity at Year R of 3210. This translated into a shortfall forecast of 13FE by 2016. This figure was reported to the Executive in November 2006 with an assurance that these figures were being reviewed and particularly being tested against the census of pupils on the roll in September 2006. Historically there has been a strong correlation, in Brent, between live birth data and pupils enrolling in Year R at Brent schools four years later. The census figures for September 2006 recorded 3005 on roll in Year R.
- 3.9 These projections have been re-run, in late November and early December 2006, after interrogating birth rate data and taking account of pupils on roll in September 2006.
- 3.10 New draft projections indicate an increase in Year R numbers from 3220 in 2007 to 3215 in 2014, and 3230 in 2016.
- 3.11 Based on these figures there would be a shortfall of **6FE** in Year R2014 based on a current YR capacity of 3210, and **7FE** in Year R in 2016

### **Review of Pupil Forecast – Key Facts**

- 3.12 Births in Brent in the last 3 years (2002-05) have been 9% more than in the 1999-02 period.
- 3.13 Considerable housing growth is planned for Brent – more than 11000 units. Current projections are based on past occupancy levels. Existing properties are more mature whereas new properties are traditionally occupied by younger families who have a propensity to have higher child yields. It is likely that in the future child yield will be greater. This has not been taken account of in the projections.
- 3.14 Casual admissions are running at a high level. It is very difficult to estimate the future patterns of inward migration. However if they are maintained at current levels, the pressure on school places is likely to grow.

## Planning Approach

- 3.15 The forecast of numbers is based on current information (such as capacities, patterns of migration, birth data, school census information); continual monitoring of numbers will take place as decisions are made to bring on stream more school places. The shortfalls identified are based on maintaining a 5% surplus capacity. This is a tight planning margin and is an approach taken to ensure we do not build too much surplus into the system. The Audit Commission recommends 10%.
- 3.16 The reason for adopting 5% is because of the uncertainties in the future relating to housing growth and migration. The above figures are the minimum growth we believe we should aim to deliver. If projections are not reached then we would still not be putting too much surplus into the system. However at the moment the factors are pointing in the direction of additional growth.
- 3.17 If we were to plan for 10% surplus then we would be adding **21FE** in the secondary sector and **13 FE** in the primary sector by 2016.
- 3.18 At the moment we are planning to add the additional capacity on an incremental basis over the period from now until 2016. Therefore the need for the additional capacity will be reviewed on an annual basis and adjustments made to the required need.

## REVIEW OF SITES

### Approach to the Review

- 3.19 A further detailed review of four potential sites for the proposed second academy in Brent has been carried out. These are Chalkhill Temporary Health Centre, on land at Barnhill Road with the Chalkhill Youth and Community Centre to the East (Poplar Grove), Gwynneth Rickus Building (with associated work to Bridge Park Leisure Complex) and Wembley Park (Bridge Road) sites.
- 3.20 In reviewing the sites, consideration was again given to the readiness with which the sites are available; financial and legal and property implications in opting for each of the sites; the capacity of the school and site being deployed as a strong hub of resources for local communities. An assessment is made of the risk that each site option poses to the deliverability of a new school for September 2010. The risk is graded between Low and Very High.
- 3.21 In addition, the views of young people were canvassed via the Young People's Panel.
- 3.22 The outcomes of the review are summarised below – however, for the sake of brevity, much of the details set out in the 13th November 2006 report is not repeated. Attachment 7 is a copy of the summary attached with the November 2006 Executive Report.

### **Review of the Chalkhill Temporary Health Care Centre**

- 3.23 The outcomes of the considerations of this site are set out under Legal Implications. This site is of insufficient size for a school development. There are also significant planning issues from the possible use of this site. It has been agreed and earmarked as a public open space, replacing public open space elsewhere on the estate displaced by the new development. The use of the site as a school would therefore be contrary to planning policy.

#### **Risk Assessment**

- 3.24 There is very high risk of not succeeding on Town Planning grounds given the loss of public open space.
- 3.25 The site is of insufficient size properly to accommodate the proposed Academy. It is unlikely that it will be possible to co-locate a 21FE primary school with a 6fFE Secondary school. Although the site could accommodate a primary school only, if the planning and legal implications are such that there is a high risk that even this would be unachievable. An additional site would therefore be required together with off-site facilities for playing fields. The Council would require the agreement of New Horizons (lead developers for the renewal of the Chalkhill housing stock) for use of the site for the new school. An alternative and suitably located provision of public open space would need to be identified within tight timescales. Overall there is no certainty that all site assembly could be secured within the timescales required to expand school places.
- 3.26 It is our judgement that to pursue this site would not produce an ideal development solution and would carry a high risk of not succeeding.

### **Review of Gwynneth Rickus Building – Property Issues**

- 3.27 The site is tight. Its size is 5,927m<sup>2</sup> (excluding the adjacent open space). 4,000m<sup>2</sup> is mainly dedicated to office space, dining hall and for the provision of out of school pupils managed by the Brent Education Tuition Service (BETS).
- 3.28 The site is surrounded by the Gibbons Road allotment (4,348m<sup>2</sup>), Gibbons Road Recreation Ground (4,348m<sup>2</sup>) and Brentfield Park (9,568m<sup>2</sup>). Attachment 5 shows the site boundary. Also adjacent is a site owned by the independent Swaminarayan School which is not available to the Council.
- 3.29 Gwynneth Rickus Building currently houses 139 employees, runs an out of school service for pupils not in schools, receives 31,200 visitors per annum during school time and has facilities for 131 car park places.
- 3.30 For a school to be placed on this site, it would displace the staff, pupils and facilities to Bridge Park which has insufficient office space to accommodate staff and facilities for conference and staff development events.

- 3.31 Attachment 4 shows that Bridge Park has no capacity to meet the needs of a re-located Centre of Staff Development, currently based at Gwynneth Rickus building.
- 3.32 Attachment 4 also shows that any new build would cost the Council in the region £8 million.

**Review of Gwynneth Rickus Building – Planning Issues (Refer to Attachment 5)**

- 3.33 The area outlined in blue is public open space. Planning Policy preclude development on this. It was open space acquired by the Department of Transport for laying out as public open space in compensation for loss of part of St Raphael's open space when the North Circular road was widened in 1980s.
- 3.34 The site outlined in green is an allotment site (Gibbon Road) within which all 30 plots are in use with a certain waiting list for plots in place. It is a site on which there has been a recent investment from S106 monies obtained from the development of other sites. Development on this land would be unacceptable in terms of planning policy.
- 3.35 Gibbons Recreation ground is a public open space and only the sport pitches could be used by a school. It would have to be retained as a public open space. There would be competition for the site from the Swaminarayan Hindu School.
- 3.36 Even if some development would seem to be acceptable, the sites are so constrained by the proximity of housing, and the public right of way through the land, that design of the building or buildings that would be acceptable in terms of scale and reference to neighbouring buildings, as well as meeting the needs of a secondary school, would be nearly impossible.

**Risk Assessment**

- 3.37 The site is of an insufficient size to accommodate the proposed Academy. It would not be possible to co-locate a 2FE primary school with a 6FE secondary school. While the site could accommodate a primary school only, there would be a need for the major relocation of existing facilities elsewhere. The incorporation of public open space to the rear would not be acceptable in planning terms, unless suitable alternative provision is made locally. The open land owned by the Swaminarayan Hindu Mission/School immediately to the North is not available to the Council for the Gwynneth Rickus site to be enlarged. The deployment of this site as an Academy site would require the relocation of the Centre for Staff Development and the PRU elsewhere. This would carry a high cost to the Council.
- 3.38 In order to allow the development of a site of suitable size and configuration additional land acquisition would be required; the CSD would need to be decanted to a site elsewhere after suitable remodelling and adaptations; this would clearly take time such that the proposed school would not be delivered for September 2010.

- 3.39 This site option has a very high risk of not being able to deliver a new school by September 2010.

**Review of Land at Barnhill Road with the Chalkhill Youth and Community Centre to the East (Poplar Grove) - Property Issues**

- 3.40 The overall site area under consideration is 25,800m<sup>2</sup>, made up of 13,000m<sup>2</sup> for the Youth and Community Centre site and 12,800m<sup>2</sup> for the adjacent residential zone. All of the 72 residential units (66 flats and 6 bungalows) are privately owned as are the neighbouring garages. At 25,800m<sup>2</sup>, this is less than the area available at Wembley Park (Bridge Road) site.
- 3.41 The Youth and Community site alone is of an insufficient size for a new school (as proposed) and associated necessary land. It would therefore be essential that additional land be made available. Making the sites available for the school would require the Council to compulsorily purchase the residential units through a Compulsory Purchase Order (CPO). This would take a minimum of two years to be resolved and would be linked or dependent on a planning application being approved. It is most unlikely that the DfES would support the efforts and spend associated with the submission of a planning application given the uncertainties of the outcome of a CPO process. A process that relied on a CPO would be a high risk one, in that in two years' time the Council could still be faced with having no suitable site. At any consequent CPO inquiry, the Council would have to justify convincingly that the purchase of the residential and other properties were necessary for the discharge of the Council duties and that there were no suitable alternatives in terms of sites.
- 3.42 During the Master planning of Chalkhill Redevelopment, the Poplar Grove site was considered as an alternative location for Chalkhill Primary School. This proposal was not pursued further given the obstacles associated with the acquisition of the residential units and the flood risk.

**Review of Land at Barnhill Road with the Chalkhill Youth and Community Centre to the East (Poplar Grove) – Planning Issues**

- 3.43 The open land adjacent to the River Brent corridor, both to the North and South is public open space. This land together with the Youth and Community site is also part of a Green Chain afforded particular protection in Brent's adopted UDP. There is therefore a presumption against building on this open land. The only feasible location for school buildings is on the presently developed frontage of Barnhill Road (Poplar Grove); however this land is currently in residential use and occupation. A further local constraint to development is the extent of the area liable to flooding which includes the whole of the green space and two thirds of the Poplar Grove development. Any developments of this land would need to be subject to a flood risk assessment and receive support from the Environment Agency. The Environment Agency are now, with Government support, taking a much cautious and firmer line in resisting development on land liable to flooding.
- 3.44 Overall there are therefore significant planning constraints in securing acceptable school development on this site, which is also further away from the Wembley



Regeneration area than the Wembley Park (Bridge Road) or Chalkhill temporary Health Centre.

### Risk Assessment

- 3.45 Although in theory it may be possible to locate an all through school on this site with associated facilities offsite, (yet to be determined) the planning and property considerations are such that there would be a very high risk that this would not be achievable. There is a very high risk that this site will not be able to be assembled for an Academy to be constructed on site for the target date of 2010; there is also a high risk that planning permission will not be forthcoming owing to objections likely to be made by the Environment Agency. There is a high risk that the Council will bear abortive costs with the development of the proposals. In the circumstances it is our view that this option will not be attractive to the Sponsor or the DfES.

### Overall Costs of Acquisition

- 3.46 The costs of acquisition (purchase and legal costs) of the residential units are set out in Attachment 1 (not for Publication)

### Review of Wembley Park (Bridge Road) Site

- 3.47 At their meeting of 13<sup>th</sup> November 2006, the Executive received a report that set out the issues to be considered in the deployment of the Wembley Park (Bridge Road) site. The relevant paragraphs of that report are attached as Attachment 6.
- 3.48 Our recommendation therefore remains that the Wembley Park (Bridge Road) site be acquired from TfL in order to accommodate the new proposed Academy. The case for siting the school at Wembley Park has strengthened over the last year. In addition to the need to meet demand for places from just over 5,000 new houses planned for Wembley, inward migration has resulted in the Wembley area being under the most pressure for places in Brent. It is now proposed that the admission arrangements for the proposed academy be drawn up so that the academy will serve primarily the Wembley area where this demand is most acute. The agreed criteria will reflect local admission criteria and will be in line with the national Code of Practice.

### Risk Assessment

- 3.49 The site is of good size and location. There is good public transport accessing the site. All the necessary facilities will be able to be located onto one site with the added benefit of an enhancement to the existing sports grounds with a managed public use of both internal and external facilities.
- 3.50 The site is in one ownership and able to be sold to the Council; the draft terms of the site acquisition have been agreed enabling the development of the site as a school site in time for September 2010 if decisions are made now.

- 3.51 The full costs for this site option are set out in Attachment 1 This site option carries the lowest risk of the options explored.

### **Outcomes of Consultation with Young People**

- 3.52 A young people's panel (12) was consulted on three of the potential sites. At the time that the panel was convened, the site at Poplar Grove was not under consideration.
- 3.53 They concluded by a majority of ten to two that the Wembley Park (Bridge Road) site is their preferred option. The views over an all through provision were mixed. Younger members of the panel (4) were in favour of an all-through school while the older ones (8) preferred a separate school for the older age range children. Eight of the panel thought that none of the sites were big enough for an all-age school. (It is the case however that the Wembley Park (Bridge Road) site is sufficient in size according to technical guidelines from the DfES. Attachment 3 sets out a summary of the consultation with the young people's panel and the outcomes of consultation.

### **The Council's Renewed Lobbying of the DfES for Capital Support**

- 3.54 Following intensive lobbying by the Council, the DfES recently announced that they would, exceptionally, fund the expansion of Preston Manor High School by a further £2m.
- 3.55 Efforts continue to ensure that the funding for the expansion of other secondary schools is in place at the earliest possible phase within the BSF programme. It is essential for a decision to be taken on the Academy now in order for the Council's request to the DfES for support for the overall strategy to have credibility.
- 3.56 The strategy agreed by the Executive in November 2006 will provide a further opportunity for the Council to make a stronger submission for early funding of the renewal and expansion of Primary Schools under the Government's Primary Capital Programme (PCP).
- 3.57 Although early indications point to limited external (DfES) sources of capital support for the Council's plans and strategy for developing school places, discussions are continuing with the DfES over capital support required for the rebuilding and expansion of John Kelly Boys' and Girls' Schools in advance of BSF. The Council will also lobby for inclusion in the earliest of the waves 7-9 for BSF investment in secondary schools.

### **The Next Steps Following a Decision on Site(s)**

- 3.58 Once a decision is made on the site options, the officers will re-engage in discussions with the DfES over the process for the Academy.
- 3.59 There will be a development phase during which a feasibility study will be carried out. During this phase, site investigations will be carried out with the view to identifying among other issues, planning constraints over siting of the school

building. It is expected that this will last between 4-6 months. The design development phase will follow during which the brief for the design will develop in a partnership between the sponsor, Partnership for Schools and the Local Authority. We expect that the Local Authority will be able to influence the siting of the building within any site, the building and design layout and the availability of the newly built facility for local communities including neighbouring schools where appropriate. During the design development stage we will build in opportunities for extensive consultation to ensure the facility is relevant for local people.

3.60 We will also in parallel initiate a consultation process over the Council's proposals aimed at both seeking the views of stakeholders and local residents as well as providing information about the project for delivering the new school.

3.61 The process between site investigations and feasibility study and the delivery of the new building is about three years, assuming an efficient process of decision making.

#### **4.0 Financial Implications**

4.1 The report to the 13th November 2006 meeting of the Executive sets out the pressures on the Capital Programme in meeting the main corporate priorities, including the demand for school places, within expected resources. It also highlighted the various funding streams available to meet capital expenditure for schools. The Capital Programme for 2007/08 to 2010/11 will be considered as part of the decisions required when full Council sets the 2007/08 budget on 5<sup>th</sup> March 2007;

4.2 The analysis in the November report concluded that given the severe constraint on capital resources the Council could not afford to turn down the opportunity of funding for an academy. It was also clear that further resources would need to be identified to build additional school capacity to meet projected demand by 2014;

4.3 The Executive therefore agreed in November to release £500K from the existing Children and Families Capital Programme to fund full feasibility studies, as part of an overall business case, to produce a delivery plan for the expansion of school places across the Borough to meet the projected shortfall. This plan was also to be used to support the Council's case to DfES for additional capital resources;

4.4 The November report also highlighted some of the risks if an alternative location to the Wembley Park (Bridge Road) for the Academy were agreed. These included:

- (i) Site acquisition and planning will take longer. Also DfES' approval for a different other sites would be required. All this would lead to delays and increases in cost particularly for construction;
- (ii) Other sites appear not to have sufficient space for a primary school. Given that primary places are needed, these costs would fall on the Council;

- 4.5 Further work has now been undertaken confirming the high need for extra places in the Borough with the consequent pressure on the Capital Programme. Also assessments of the four main potential sites for the Academy have also been carried out with the detail in the body of the report. The following sections of the Financial Implications will provide additional information.

#### **Chalkhill Temporary Health Care Centre**

- 4.6 A number of fundamental legal issues, set out in Section 5 of the report, appear to rule out this as a suitable site. Obtaining the use of the land to construct an academy is likely to incur substantial legal and compensation costs which cannot be currently quantified

#### **Chalkhill Youth and Community Centre (Poplar Grove)**

- 4.7 No provision currently exists within the Capital Programme for the purchase of the additional sites required. Similarly, the substantial legal costs involved in the acquisition have no specific budget.

#### **Gwynneth Rickus Building**

- 4.8 At the November Executive officers were asked to examine the feasibility of developing the Gwynneth Rickus Building as a secondary school by relocating the Teachers' Centre and amalgamating adjacent land holdings. Sections 3.24 to 3.33 provide a detailed analysis. There are a number of potential additional costs associated with the site :

- (i) Demolition costs of the existing building which are provisionally estimated at c.£450k (as a desk based estimate). We would seek a contribution from DfES but this may not be forthcoming;
- (ii) Lack of space to provide a primary school with an estimated value of around £5m to provide an alternative facility;
- (iii) Cost of providing alternative accommodation and facilities currently within the Teachers' Centre. A possible new build alternative at Bridge Park is shown at Attachment 4. There is no provision for this within the current Capital Programme and it may have an adverse impact on the economic and service operations of the present centre at Bridge Park. Capital Financing costs for such new accommodation would be around £800k per annum;
- (iv) If an alternative leased facility were considered, this would require significant conversion investment plus on-going rental costs. Again there is currently no budget provision for this.

#### **Wembley Park Sports Ground**

- 4.9 Attachment 1 sets out details of the outcome of the negotiations to acquire the site. This involved a jointly commissioned valuation between the Council and

TfL. The agreement could be potentially finalised in a relatively short time period. The purchase price, set out in the “Not for Publication” section of the report would be funded from the Children and Families Capital Programme assisted by around £900k of available Section 106 monies linked to the Wembley development. Settlement would not be required until completion of the construction of the academy. The rental payments until completion would also need to be met from the Children and Families revenue budget as would any legal costs incurred. The capital financing charges from 2011/2012 would be around £380k per annum.

- 4.10 The revenue costs of running the academy, excluding financing charges, will be met directly by the government.

## **5.0 Legal Implications**

- 5.1 Section 14 of the 1996 Act requires the authority to secure that sufficient schools for providing primary and secondary education are available for their area. The schools available for an area shall not be regarded as sufficient for the purposes of the Act unless they are sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. This is generally held to be a target duty which the LEA must seek to comply with.
- 5.2 The Children and Young Peoples Plan (page 17) includes, as indicator 3(e), the number of children 11-16 seeking a school place. The target for 2008/9 was to develop a new academy to provide over 1000 new places. This plan was adopted by Full Council and the Executive is therefore required to act in accordance with that plan and not to do anything which would conflict with that plan. In the event that the Executive were to decide a course of action which meant that this target would, in reality, not be met then the matter would need to be referred to Full Council for a decision. The Director of Children and Families will be able to advise whether, if the City Academy route is not progressed now, it would in reality then be impossible for the Council to meet its duty to provide school places (as required by the legislation) and/or to provide the City Academy by 2008/9 as required by the Children and Young Peoples Plan.
- 5.3 The Council has power to acquire land for the purpose of performing its functions. The Council must be satisfied that the sum or sums which it pays for that land is appropriate in the circumstances. The Council will then need to dispose of the land to the Academy and any disposal of open space by the Council will need to be advertised and the responses to that advertisement taken into account by officers prior to the disposal.
- 5.4 The agreement of the Executive to proceed with the City Academy on the recommended site or any other does not mean that planning permission will necessarily be granted and the Planning Committee will need to consider the application in the usual way. The committee will only be able to take genuine planning considerations into account. The application may also be referable to the Secretary of State and it could also be called in thereby removing the decision from the Council.

- 5.5 Under the Framework Agreement entered into on 1<sup>st</sup> July 1996 between Brent and New Horizons (Brent) Limited, New Horizons can call for the transfer to them of a Zone falling within the overall Chalkhill Estate development. The Chalkhill Open Space (shown as the “Main Park” on the Master plan attached to the Framework Agreement) is one of the Zones. Under a Supplemental Agreement of 31<sup>st</sup> March 2003, the area has to be laid out as a park. Accordingly, New Horizons can call for transfer of this area by serving the appropriate notice on the Council. The Council’s records indicate that the land has already been transferred to Metropolitan Housing Trust but the Land Registry entries which show it as still in the Council’s ownership. This discrepancy is being considered by Legal Services. In any event, even if the land has not been transferred to MHT, it will be necessary to obtain agreement from New Horizons to a variation of the Framework Agreement so as to remove this area from being one of the Zones to be transferred. Furthermore, the Framework Agreement sets out that the Council and New Horizons are entering into the agreement “to achieve the Development Objectives”. One of the Development Objectives is the provision of the Main Park. Accordingly, the Council would also need the agreement of New Horizons to a variation of the Framework Agreement to alter this provision as well.
- 5.6 There is a restrictive covenant in favour of Metropolitan Railway Country Estates Ltd to the effect that no building other than a dwelling house will be erected on the land in question. This company no longer exists but is presumably the predecessor in title to London Underground. However, from the wording in the Land Registry entries it would appear that this covenant is not enforceable by London Underground as it is not stated to be for the benefit of any specific land (and hence the benefit of it would not have passed to London Underground). Alternatively, if that is not correct for any reason, an application to the Lands Tribunal could be made to obtain its release on the grounds it is now obsolete, since it is difficult to see what benefit there is to London Underground in preventing building on the land.
- 5.7 Outline planning permission was granted in 1995 for the redevelopment of the Chalkhill Estate and numerous approvals of reserved matters have been granted since then. Both the grant of the outline permission and of the reserved matters have been on the basis that the Master plan for the redevelopment would be adhered to.
- 5.8 It is understood that two separate consultations took place with residents of the former Chalkhill Estate to obtain their views on the proposed redevelopment (in November/December 1994 and July 1995). The first consultation was required as part of the process of gaining possession of certain properties within the estate and the second was necessary prior to transfer of properties within the Scientist Estate (part of the overall estate).
- 5.9 The site at Barnill/Poplar Grove would be unlikely to be granted planning permission because of its position on a flood plain and because it forms part of the green chain open space. These are material planning considerations and would be a major consideration in determining any application for development. The report suggests that it might be necessary to acquire the flats and/or garages on the site in order to provide for a large enough site. It also suggests that these flats and garages are in private ownership. It would be virtually impossible to

secure a CPO for those properties given that there is a viable alternative site for the school as demonstrated by this report. Compulsory acquisition is a draconian power and should not be exercised lightly. The secretary of State would be unlikely to grant CPO powers in this case given the circumstances. Even if this were possible it would take approximately two years to obtain the necessary order given the need for a public inquiry and the number of sites involved."

- 5.10 Members who are governors of schools which could be affected by the proposal, in either a positive or negative way, will have a personal interest in this matter and must declare that interest at any meeting at which the issue is discussed. That interest may also be regarded as a prejudicial interest if it is so significant that members of the public would consider that the member's judgement of the public interest is likely to be prejudiced. It is debatable whether a member's judgement of 'the public interest' is prejudiced by his or her position as a school governor and it could be argued that such a position should or would not necessarily prevent a councillor still being able to judge what is in the public interest. In any event, if the councillor was nominated to that school governor position by the Council he or she would be entitled to reply on the exemption found in paragraph 10(2) of the Code of Conduct. Members who are parent or grandparents of children who are likely to be affected by the proposal will not be able to rely on this exemption and will need to give careful consideration to their position.

## **6.0 Diversity Implications**

- 6.1 The Borough is now established as a local authority area with the most diverse community in respect of race and ethnic composition. Many of these communities have suffered disadvantage, including socio-economic disadvantage.
- 6.2 In Brent there is differential underachievement between children of different ethnic origins. This Strategy, as it develops, will help narrow gaps in performance. Access to a good quality school place in every local area of the Borough is central to raising education standards and achievement thus helping address inequality and socio-economic disadvantage and deprivation.
- 6.3 The Strategy for the Development of Schools will take the authority further forward to providing greater access to good quality schools in every local area. It will therefore have a positive impact across all sectors of the local communities. Choice will be further promoted and opportunities for social inclusion further enhanced.
- 6.4 The Teacher Trade Unions have expressed their view that the siting of an Academy in Wembley rather than in the south of the Borough could be indirect discrimination against Black students who according to the Unions live predominantly in the south of the Borough; the siting in Wembley they claim would favour Asian students who live predominately in the north. The argument is that students in the south of the borough have less easy access to secondary schools than in the north and that the key regeneration areas where investment is needed are in the south of the borough.

6.5 It is not considered that the allegation of discrimination is valid on the following grounds;

- The Wembley site which is near the new major housing development (over 50% of the total of new housing in the borough) is central to the borough with good transport links to the south. National criteria for the establishment of a secondary school provide for a reasonable access area of a radius of 3 miles which takes in the vast majority of the south of the borough including Stonebridge and Harlesden which have the highest proportion of Black residents – (43-45%).
- The School Places Strategy provides for expansion of school places in both the north and south of the Borough. Currently there is no site available in the south of the Borough to meet the immediate need for expansion of school places.
- The Wembley area is ethnically diverse with a substantial proportion of Black residents (20%).

6.6 Generally the Borough's population is increasing. New housing through development and large scale regeneration schemes in both the North and the South of the Borough will bring more children as c11,000 new dwellings come on stream with c5,500 of them planned for the North of the Borough in the Wembley area.

6.7 The Strategy for the Development of School Places proposes local solutions (dependent on available resources such as land and Capital resources) across all Borough areas with the expansion of schools being proposed both in the North and the South. However the proposed development of a school for September 2010 in Wembley Park, with development work in place for other expansions across the Borough, will further enable the Council to meet the needs of its diverse population.

6.8 The Council's Capital programme also helps meet the needs of local communities as it improves schools' ability to provide access to a range of young people with physical and sensory needs. The Council's extended school programme helps the Council address the needs of vulnerable communities with a range of needs; as school buildings are improved across the Borough. Young people (the majority of whom are from black and minority ethnic groups) are able to learn in improved environments thus helping them achieve better in schools.

6.9 Overall the Strategy for the development of school places, including the specific proposal for siting a school in the Wembley Park area together with the Council's Investment Plan for schools, will have a positive effect on the promotion of equality of opportunity.

6.10 An Equality Impact Assessment has been carried out and a copy is available from the office of the Director of Children and Families.



## **7.0 Staffing/Accommodation Implications (if appropriate)**

7.1 There are none for the immediate purpose of this report.

### **Background Papers (essential)**

- i) Equality Impact Assessment
- ii) Review Group report on Roll Projections
- iii) 13 November 2006 Executive Report : A Strategy for the Development of Primary and Secondary Schools – Options for Delivering Additional School Places
- iv) Executive Report dated 14 November 2005.
- v) Site Review papers.

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