



Executive
15 July 2013

**Report from the Director of
Regeneration and Growth**

Wards affected:
ALL

**School Expansion Programme - Temporary Primary School
Expansion 2013/14 and Preston Manor School**

Appendix 1 of this report is Not for publication ('below the line')

1.0 Summary

- 1.1 In May 2013 the Executive received an update on the school expansion programme 2012-16 and approved proposals for the provision of temporary school places for the 2013/14 academic year.
- 1.2 This report seeks approval to a revised proposal for the provision of temporary school places and approval to use council assets to deliver the proposal.
- 1.3 In February 2011, the Executive was informed about existing covenants on Preston Manor school's land in relation to the expansion of that school to take primary aged children. The school, with support from the Council, appointed external legal advisors to seek amendments to the covenants through the Upper Tribunal.
- 1.4 This report provides an update on progress and seeks authority to continue the Upper Tribunal process and/or alternative routes with the help of external legal advisors.

2.0 Recommendations

The Executive is recommended to:

- 2.1 Note the current status of all projects to provide temporary school places for September 2013 and during the 2013/14 academic year
- 2.2 Approve the use of Anansi to provide temporary school places for three to five years aligning with Knowles House temporary use arrangements and to agree that an appropriate lease/license agreement be entered into with College Green Nursery allowing occupation.
- 2.3 Approve the use of Douglas Avenue to provide temporary classes for up to two years and to agree that an appropriate lease/licence agreement be entered into with a suitable school to allow occupation.
- 2.4 Approve the use of Strathcona to provide temporary classes for four to seven years, thus withdrawing the site from the market for that period and to agree that an appropriate lease/licence agreement be entered into with Roe Green Infant School to allow occupation.
- 2.5 Delegate authority to the Operational Director Property and Projects to agree the terms of the lease/license and enter into appropriate agreements.
- 2.6 Note the current status of the legal process in relation to the restrictive covenants on land belonging to Preston Manor School.
- 2.7 Approve the continuation of the Upper Tribunal process in relation to the covenants related to Preston Manor School.

3.0 Detail

Temporary Primary School Places 2013/14

- 3.1 In May 2013 the Executive approved proposals to deliver a total of 26 classes of temporary primary school places which were identified as required in advance of permanent places being delivered in 2014-15. It was noted in the report that the number would be confirmed after full review, that the timescale posed a particular challenge to all of the proposals and that further analysis would be undertaken.
- 3.2 Further analysis of the approved proposals has now been undertaken and the current status of approved proposals is shown in table 1 below. The analysis shows that some previously approved proposals are not deliverable and this report indicates new proposals to replace those.

Table 1 – Current Status of Previously Approved Temporary School Place Proposals

School/Site	Number of classes to be provided (from Executive report May 13)	Number of classes that can now be provided (as at 5 June 2013)	Current Status
Gwenneth Rickus Building	15	15	It is not desirable to provide all 15 classes for September 2013 due to impact on existing neighbouring schools. A split of 8 classes in September 2013 and the remainder in January 2014 was preferred by C&F. The overall proposal has proved to be more than the medium risk indicated in May 13 in terms of deliverability for September 2013. At the time of the May report, a feasibility study had not yet been completed. This has now been received and the extent of works required cannot be completed in the one month the building is empty before September 2013. 2 reception classes are to be provided for Sept 13 (these classes have been offered by C&F) and the remainder by Jan 14.
Kingsbury High/Village School modules	7	0	This proposal is not deliverable. It was not possible to reach an appropriate financial agreement with Kingsbury High School to retain these modules on their site. The project was also high risk in respect of planning approval.
Make use of new classrooms previously delivered	2	1	Although not indicated in the May report this proposal referred to two schools: Preston Manor – After consideration, the school could not agree to take the additional class Brentfield – This proposal remains open and subject to agreement with the school
Bulge classes	2	2	No sites were identified in the May report so the provision of these two classes is subsumed within the wider current proposals in table 2 below.
Total	26	18	

- 3.3 In addition to deliverability issues with the previously approved proposals, the number of classes to be provided has increased by 1 to 27 classes in total since the May 2013 report and the breakdown of classes to be provided for each year group has changed resulting in a different balance of places to be provided during the academic year.
- 3.4 As previously reported, the school place demand for 2013-14 is supported by the actual number of applications being received for the 2013-14 academic year. 3799 on time applications were received by 15 January 2013 compared to 3717 on time applications during the whole current academic year 2012-13. As in 2012-13, the council has been able to offer all on-time applicants a school place for September 2013.
- 3.5 Between the closing date on 15 January 2013 and 17 June 2013 a further 472 late applications have been received (including 30 applications for non-Brent residents), compared to 712 late applications (including 49 applications for non-Brent residents) for virtually the whole 2012-13 academic year. This also represents an increase of 239 applications since the figure reported in May 2013. Typically late applications reduce during the summer months and increase again in September. Based on previous years' experience, late applications will continue to be received throughout the next academic year and account for a small but significant percentage of demand. As an update to the information provided in the May report, the current position on the balance of out of school children and vacancies for the 2012-13 academic year is shown in table 2 below:

Table 2 – School Places as at 17 June 2013

Year Group	Out of school children	Children who have not been offered a school place	Vacancies
REC	44	5	55
YR 1	54	2	18
YR 2	21	4	49
YR 3	11	1	20
YR 4	24	0	32
YR 5	27	2	51
YR 6	8	0	120
TOTAL	189	14	345

- 3.6 The current projections for temporary class requirements based on previously reported GLA projections for the 2013-14 academic year including allowance for in-year applications is as follows in table 3. This indicates a one class increase on previously reported figures which reflects continued in year application and subsequent detailed review by Children & Families:

Table 3 – Temporary primary school requirement for September 2013-14 onwards

	Number of Classes Required							
	R	Y1	Y2	Y3	Y4	Y5	Y6	Total Classes
Reported in May 13	13	4	4	2	1	1	1	26
Current (as at 4 June 2013)	10	3	4	3	3	2	2	27
Difference	-3	-1	0	+1	+2	+1	+1	+1

- 3.7 In order to address the shortfall in classes to be provided in the previously approved proposals and to accommodate the increase in total number of classes required, a review of all available non-school buildings and sites was undertaken by the Schools Capital Programme team and the Strategic Property team with Children & Families. Table 4 below shows the outcome of that review and the proposed temporary school expansion projects with indicative classes to be provided in each year group:

Table 4 – Proposed Temporary School Expansion

School/Site	Date for classes to be provided	Status	R	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Total
Gwenneth Rickus Building	September 2013	High risk for Sept 13 completion due to timescale for delivery	2							2
Gwenneth Rickus Building	January 2014	Medium risk for delivery on time	2	2	2	2	2	2	1	13
Make use of existing classrooms at Brentfield	September 2013	Medium risk – school agreement required						1		1
Ashley Gardens	September 2013	Medium risk – planning approval required (available for 1 year only)	2							2
Douglas Avenue	January 2014	Low risk for delivery in Jan 14						1	2	3
Anansi	January 2014	Low risk for delivery in Jan 14	2	1						3
Strathcona	January 2014	Low risk for delivery in Jan 14	4	1	2					7
Total			12	4	4	2	2	4	3	31
Requirement			10	3	4	3	3	2	2	27
Difference			+2	+1	0	-1	-1	+2	+1	+4

- 3.8 The table above indicates a surplus of places to be created. This float is a contingency for resolving the imbalance between year groups that currently exists and to allow for any proposed schemes becoming undeliverable. It is not possible for example to put all 10 reception classes into one building and an appropriate balance across year groups has to be sought with the permanent school transition for these children considered.
- 3.9 The majority of these places will become available after September 2013. The impact of this is being assessed by Children & Families in relation to a detailed review of the late applications. Arrangements will be made for those children who will have reached statutory school age in September 2013 and places offered to those children who are currently out of school.
- 3.10 As set out in recommendation 2.1, Members are asked to note the current status of all projects to provide temporary school places for September 2013 and during the 2013/14 academic year.
- 3.11 Members are asked to approve the use of three of the sites indicated as proposals for temporary school places above – Anansi, Douglas Avenue and Strathcona with specific recommendations below for each.
- 3.12 Officers recommend further that these three properties should be used for temporary school places rather than the other uses previously agreed which were a mix of commercial lettings and disposals. These are detailed below.

Anansi

- 3.13 Anansi is a former nursery and is therefore easily adaptable for two reception and one year 1 temporary school classes. The initial indicative forecast cost of this project to provide three classes is £130k, although this is subject to progression of detailed design and associated potential changes to project scope and brief before finalisation. College Green Nursery has agreed in principle to manage temporary classes at Anansi subject to Governing Body approval to details which is expected at a meeting on 4 July. This follows successful temporary classes at College Green Nursery in previous years.
- 3.14 Anansi adjoins Knowles House. The Executive in April 2013 approved that Knowles House used as temporary housing for homeless families in order to assist with the surge in demand resultant from benefit changes. The Knowles House proposal requires change of use and is currently going through the planning process. The tender process to select a managing agent is underway.
- 3.15 Anansi and Knowles are interconnected, if taken to the market for sale both sites would need to be sold together therefore in order to utilise Anansi a marketing exercise was undertaken offering the building for lease over a 5 year period with a 3 year break clause for redevelopment. The outcome of marketing was considered) in May 2013, following which property officers

commenced negotiations with the top two bidders; these negotiations have been put on hold in June 2013 pending a decision by Members that the proposal that Anansi be used to provide temporary school places to assist with meeting Brent's statutory duties is approved

- 3.16 The implication for the proposed utilisation of Anansi is that a rental of up to £45k per annum will be foregone. This could impact on the Property and Project team's ability to meet its target for additional external rental income in 2013/14. This will be contained within the overall RMP budget unless alternative sources are identified to fund this. All capital expenditure costs will be met from the school expansion capital programme funding.
- 3.17 A business case for the use of Anansi as temporary school places (as outlined above) has been prepared. Members are asked to note the change in direction from the earlier approval and therefore to approve the use of Anansi to provide temporary school places for three to five years aligning with Knowles House temporary use arrangements and to agree that an appropriate lease/license agreement be entered into with College Green Nursery allowing occupation, as set out in recommendation 2.2.

Douglas Avenue

- 3.18 Douglas Avenue Resource Centre was formerly a nursery but has in recent years been used for locality based council staff teams. The building can be readily converted into classrooms for older children and if used for one year 5 and two year 6 classes, all children will have moved out of the temporary school into secondary school within two years. The initial indicative forecast cost of this project to provide three classes is £130k, although this is subject to progression of detailed design and associated potential changes to project scope and brief before finalisation. Children & Families have engaged with local schools to manage temporary classes at Douglas Avenue, subject to Governing Body approval to details which is expected in July.
- 3.19 In February 2013, the Executive approved that Douglas Avenue be sold to fund works at Ashley Gardens. Officers are proposing that the additional lands adjoining 1 Clement Close be sold to fund the loss of capital receipt at Douglas Avenue and this is the subject of another Executive report for the July meeting.
- 3.20 Douglas Avenue is not included within the Capital Disposals Programme and as such the recommendations will not impact on existing funding forecasts for the overall Capital Programme. However it should be noted that approval of the use of Douglas Avenue for temporary school places will result in the potential capital receipt of up to £400k being foregone which could have provided an additional receipt to the funding of the Capital Programme reducing the requirement to undertake an equivalent level of unsupported borrowing.
- 3.21 Members are asked to approve the use of Douglas Avenue to provide temporary classes for up to two years and to agree that an appropriate lease/licence agreement be entered into with a suitable school to allow occupation, as set out in recommendation 2.3.

Strathcona

- 3.22 Strathcona is a former day centre which is currently occupied by property guardians. The proposal is to use Strathcona to address the greatest need for temporary school places in the lower age ranges and to create an early years and key stage 1 unit with four reception classes, one year 1 and two year 2 classes. The initial indicative forecast cost of this project is £230k, although this is subject to progression of detailed design and associated potential changes to project scope and brief before finalisation. Roe Green Infant School has agreed in principle to manage the temporary classes at Strathcona subject to Governing Body approval to details which is expected in July.
- 3.23 The site has been empty for a while as it was deemed surplus to requirements as part of the day centre strategy review and was not required at that time for temporary school places due to preferable alternative sites in the local area to meet demand at that time. Following this decision, Officers in Property & Projects, having reported to various internal Boards, appointed Savills to undertake marketing on its behalf. Having received bids, shortlisted and interviewed based on our agents recommendations the Executive in May 2013 approved a recommendation for sale to a preferred bidder. Officers in Property & Projects are currently working with lawyers to agree heads of terms.
- 3.24 Due to the scale of demand for school places, a revised recommendation is now made that Strathcona be used for temporary school provision.
- 3.25 The site is currently included within the Capital Disposals Programme at a total forecast receipt of £2.5m which contributes to the funding of the Council's 2013/14 overall Capital Programme. If the site is released for the provision of Temporary Bulge Classes there will be a deficit arising in forecast capital receipts for 2013/14 which will be detrimental to the capital programme. This could result in an increased requirement for unsupported borrowing increasing debt charges to the revenue account, which would be equivalent to a maximum of £394k per annum over the maximum 7 years of utilisation if the full sum were repaid over that period. However, it is likely that any such reduction in funding would be offset in the short term by slippage in programmed expenditure across the capital programme. As the proposal is for temporary class provision the asset will return to the disposals programme in future years forecast receipts.
- 3.26 Members are therefore asked to approve the use of Strathcona to provide temporary classes for four to seven years, thus withdrawing the site from the market for that period and to agree that an appropriate lease/licence agreement be entered into with Roe Green Infant School to allow occupation, as set out in recommendation 2.4.

Risk management

- 3.27 Officers are aware that the primary purpose of this report is to review decisions made previously by the Executive. The recommendations made in the report in respect of temporary school places are considered deliverable (with the risks levels noted) and have been reviewed by officers at various internal reporting boards before being recommended to the Executive. The risk of decisions made now, by the Executive, particularly in respect of council assets, becoming obsolete is therefore minimised. This is supported by a more co-ordinated approach between the Schools Capital Programme team and the Strategic Property team and more robust governance structures for the projects within the Schools Capital programme with a greater emphasis on the cross-departmental work with Children & Families on school place demand.
- 3.28 A Temporary School Expansion Programme Board with associated Project Board has been established to ensure that the risks associated with these projects are managed effectively to ensure delivery.

Preston Manor (2FE Primary) School – Restrictive Covenants

- 3.29 The proposal to expand Preston Manor High School formed part of the £14.766m grant allocation in November 2009 from the previous DCSF under the additional round of Basic Need Safety Valve (BNSV). The funding was an emergency allocation to provide sufficient reception places by September 2011.
- 3.30 This was a fast-tracked programme with an objective to build and deliver a new two form of entry primary provision in time for the 2011-12 Reception classes intake.
- 3.31 At the time of the statutory proposal (2011), Preston Manor High School was a Foundation School (now converted into an Academy). The Governing Body on request from the Council had completed a statutory proposal to a) lower the age limit of the school by providing a two form of entry primary provision and as a result, 2) enlargement of the premises of the school which would increase the physical capacity of the school. The statutory notice was published on 4 November 2010. Brent Executive as a decision maker approved the proposal on 15 February 2011.
- 3.32 During the consultation stage, the Council had identified that school land on which the new primary provision would be established is governed by restrictive covenants. Members were informed on this matter in the February 2011 Executive report, through an Appendix, which was not for publication.
- 3.33 In order to meet part demand for reception places in the 2010-11 academic year and to ensure the BNSV funding was not at risk of claw back, a planning application was also submitted in October 2010 to provide two temporary classrooms at Preston Manor High School with the entrance from Ashley Gardens. The temporary building was completed in mid-February 2011 with permission to remain on site until end of December 2013. A license from Preston Manor's governing body for the temporary accommodation was agreed for operating the temporary provision on its school grounds.

- 3.34 This report provides an update to Members on the current status of the restrictive covenants on the land of Preston Manor (primary) School, which Members are asked to note the update, as at recommendation 2.6. Members are also asked to approve the continuation of the Upper Tribunal process and/or alternative routes in relation to such covenants, as set out in recommendation 2.7. The information is set out in Appendix 1, which is not for publication.

4.0 Financial Implications

- 4.1 The May 2013 Executive report identified capital funding of £2.5m to deliver temporary provision for the 2013-14 academic year. This is sufficient to deliver the proposals identified based on the following initial indicative forecast project costs shown in table 5 below:

Table 5 – Initial Indicative Forecast Capital Project Costs

Project	Number of Classes	Initial Forecast Cost
Gwenneth Rickus Building	15	£1m
Anansi	3	£130k
Douglas Avenue	3	£130k
Strathcona	7	£230k
Brentfield	1	£10k
Ashley Gardens	2	£40k
Total	31	£1.5m

- 4.2 As previously stated the above costs will be subject to progression of detailed design and associated potential changes to project scope and brief before finalisation. The balance of £1m in the identified capital funding for delivery of temporary provision in 2013/14 will initially be held as programme contingency (managed by the Temporary School Expansion Programme Board) until the design process is completed and forecast scheme costs finalised. Any residual capital funding post finalisation of project costs will be re-directed back to the schools capital programme for permanent primary, secondary and SEN expansions.
- 4.3 The above Detail Section of this report includes information on the financial implications associated with the recommendations to utilise the three additional sites for the delivery of temporary provision. These implications can be summarised as follows:
- Anansi Nursery - This site is not included within the Capital Disposals Programme. However, a potential rental stream of up to £45k per annum will be foregone. This could impact on the Property and Asset Management team's ability to meet its target for additional external rental income, and any shortfall would have to be contained within the overall RMP budget unless alternative sources are identified to fund this.
 - Douglas Avenue – This site is not included within the Capital Disposals Programme. However, the proposed use of the site will result in the

potential capital receipt of up to £400k being foregone which could have provided an additional receipt to the funding of the Capital Programme reducing the requirement to undertake an equivalent level of unsupported borrowing.

- Strathcona – This site is currently included within the Capital Disposals Programme at a total forecast receipt of £2.5m. If this site is released for the provision of temporary classes there will be a deficit arising in forecast capital receipts for 2013/14 which will be detrimental to the capital programme. This could result in an increased requirement for unsupported borrowing, increasing debt charges to the revenue account by £394k per annum over the maximum 7 years of utilisation if the full sum were repaid over that period, although it is likely that any such reduction in funding would be offset in the short term by slippage in programmed expenditure across the capital programme. As the proposal is for temporary class provision this asset will return to the disposals programme in future years forecast receipts.

4.4 Revenue funding to meet any abortive costs arising from withdrawing the Strathcona site from the market will be met from Property & Projects special projects revenue budget.

4.5 Property & Projects are foregoing a significant amount of rental income in bringing forward these proposals. Where this has happened with other council departments the approach is based on the one council approach with cash flow financial modelling showing how property costs are off set by savings in another department. Property & Projects have initiated discussions with Children & Families to ascertain if a similar model for temporary school use can be agreed.

5.0 Legal Implications

5.1 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 schools 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.

5.2 As a contingency, to support the admission to school of children as quickly as possible, the In Year Fair Access Protocol has been revised and schools and the Unions have been consulted on a new proposed Protocol. The Protocol now in place allows for the admission of children over schools planned admission numbers in the event that a school place is not available. Schools will not be required to maintain classes over the planned admission number but will revert to the usual admission number when children leave.

- 5.3 The form of documentation with individual schools governing the provision of temporary classroom will depend upon the current status of the school. Where the temporary classrooms are allocated to a community school the agreement will take the form of a licence. Where the temporary classrooms school are allocated to a Foundation school or voluntary aided school the agreement will take the form of a short term lease contracted out of the security of tenure provisions of the Landlord and Tenant Act 1954.

6.0 Diversity Implications

- 6.1 An Impact Needs/Requirement Assessment (INRA) has been prepared as part of the four year rolling programme, which will be further reviewed quarterly.

7.0 Staffing/Accommodation Implications

- 7.1 In order for the following properties to be utilised for temporary primary school places then the staff/services below must re-locate as indicated:
- Anansi – The Council's Right Track programme currently using the building should move to Roundwood Youth Centre. The team were due to move to the new Roundwood Youth centre in November 2012 when it completed but have delayed occupation due to the public access Wi-Fi installation at Roundwood not yet being complete. This work is being progress by the Council's IT department in conjunction with Children & Families. There is currently no date for this team to move but the expectation that this would take place in a school holiday in 2013
 - Douglas Avenue – The council staff teams currently based in the building will re-locate to Challenge House or Civic Centre in July 2013. This is part of a planned move which is not currently in delay.
 - Gwenneth Rickus Building – The council staff teams and training services that are currently based in the building will re-locate to the Civic Centre at the end of July 2013 and also to Council property adjacent to Ashley Gardens. This is part of a planned move which is not currently in delay.
- 7.2 The Schools Capital Programme team has now been established following a recruitment process. A Programme Manager started in post in mid-April, with three Project Managers in post between end April and early June. All three Project Managers are managing temporary school place projects alongside permanent school expansion projects. A further review of staffing requirements for the schools capital programme is being undertaken.

Background Papers

1. Paper on Temporary School Expansion 2013/14 for Primary Schools Capital Programme Board on 5 June 2013
2. Business Case on Temporary School Expansion 2013/14 for Corporate Assets Board on 10 June 2013 and revised for Major Projects Review Panel on 21 June 2013

3. Executive Report – 20 May 2013 – Review of the School Expansion Programme 2012-16

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