




<b>Report to:</b>	Strategy & Resources Committee	<b>Date:</b>	17 July 2017
<b>Report title:</b>	School development at Rosehill Park		
<b>Report from:</b>	Gerald Almeroth, Strategic Director - Resources		
<b>Ward/Areas affected:</b>	Sutton North		
<b>Chair of Committee/Lead Member:</b>	Cllr Ruth Dombey, Leader of the Council and Chair of S&R Committee Cllr Simon Wales, Deputy Leader and Lead Member for Resources		
<b>Author(s)/Contact Number(s):</b>	Christopher Rhodes, Head of Asset Management, 020 8770 6148		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• A Fair Council</li> <li>• A Smart Council</li> </ul>		
<b>Open/Exempt:</b>	Appendix B is exempt on the basis of Paragraph 3, Schedule 12A of the Local Government Act 1972		
<b>Signed:</b>		<b>Date:</b>	05 July 2017

## 1. Summary

- 1.1 This report seeks approval to development of a new school at Rosehill Park, subject to planning approval and final legal process, on the basis of a new 125 year lease for the school and new lease arrangements with the operators of the sports facilities on the site which will be affected by the proposals.

## 2. Recommendations

The Strategy and Resources Committee is recommended to:

- 2.1 Approve the principle of a 125 year lease for school development on the land edged red on the plan at Appendix A, subject to planning consent, at a peppercorn rent being a discounted disposal value in line with sections 4.8 and 4.9 and section 6;
- 2.2 Authorise the Strategic Director - Resources in consultation with the Lead Member for Resources to approve final terms and legal agreements for the new school and revised lease arrangements with the existing tenants at this location as necessary to give effect to recommendation 2.1.



### 3. Background

- 3.1 Greenshaw Learning Trust (GLT) were approved by the Education and Skills Funding Agency (ESFA) to operate a new 8 form entry Academy in March 2015 providing 240 additional year 7 places contributing to Sutton's projected school place requirements.
- 3.2 The search for a site for a new secondary has been long, detailed and extensive. Following the acquisition the Sutton Hospital site for the first of the two new secondary schools required in Sutton, the Local Plan process was used to review all sites in Sutton that could be suitable for the second secondary school. Throughout the Local Plan process undertaken last year, over 200 potential sites were considered against a range of criteria (site size, planning designation, transport, loss of land which currently has full public access and deliverability) and it was determined that, from a very limited shortlist, the Rosehill site would be the option with the lowest negative impact given the opportunity to combine the school with the existing developed sports village facilities. No other suitable sites were identified.
- 3.3 School development at the Rosehill site was formally proposed as part of the preferred option for the draft Local Plan approved by Housing, Economy and Business Committee in December 2016. ESFA and GLT approached the Council and its tenant GLL (Greenwich Leisure Limited), who recently acquired the lease of the sports village, about development of the site. It was felt there was scope to remodel the configuration of buildings at the sports village site including some of the existing tennis courts to allow sufficient space for the construction of the new school. At that time, GLL had indicated to the ESFA that any facilities that were lost to create the site for the new school would need to be reprovided. As such, one of the main difficulties with this approach was that it would be difficult to fit all of this development within the existing sports village site and parking would likely need to encroach into the metropolitan open land (MOL). This is described further in 4.1 and 4.2.
- 3.4 Following further negotiations between ESFA and GLL a revised site boundary was requested by the ESFA in April 2017 to enable sufficient space for the school buildings. This revision is referred to in paragraph 4.2.
- 3.5 There remains a strong basic need case for a new school in this part of the borough to meet projected population growth in the area and associated school place demand. Latest School Census data indicates around 420 additional year 6 pupils will be in Sutton's primary schools and seeking a Year 7 place at a secondary school by 2020/21, of which the Harris Academy Sutton school at the Sutton Hospital site will provide 195. This, together with the 240 additional Year 7 places now proposed at Rosehill, would meet the requirement and allow some further growth. The proposed new secondary school in the south of the borough will be complemented by this location to the north with good accessibility.
- 3.6 Part of the site, shown edged blue on the plan at Appendix A, is subject to a lease to Greenwich Leisure Limited (GLL), formerly Sutton Junior Tennis Centre Limited, from January 2012 with a remaining lease term of 55 years, for provision of sports and leisure facilities. Part of the let area would be subsumed into the proposed new school and would require variation of the lease.



GLL also have rights over access and car parking areas and this will need to be reviewed and agreed between all parties in the course of finalising new legal agreements.

#### 4. Issues

- 4.1 The ESFA have carried out a site appraisal to demonstrate viability and have had early discussions with planning officers regarding the proposal. Initial studies propose a building of 3-4 storeys on land to the south of the existing sports village buildings. This would require further work reflecting the sensitivity of the site, but potentially issues could be overcome with a high quality and sensitive design led approach that responds positively to the following concerns that had been raised about the site:
- subject to agreement with GLL around a reduction in the number of tennis courts there could be an opportunity to deliver the school and the associated parking solution within the existing boundary of the Sports Village and without encroaching into the MOL any further than the boundary shown in Appendix A;
  - the orchard area would remain protected and excluded from transfer;
  - the recreation ground would remain protected and open for community use;
  - the bowling green / community centre would remain protected;
  - public access tennis courts to the south of the site would be required temporarily as a compound for building materials, but resurfaced courts would be provided once construction is completed, and;
  - new multi-use games areas, sports hall would be available for public use out of school hours by agreement with the school provider.
- 4.2 This scheme would require a small boundary change from that consulted upon in the draft Local Plan and this has already been put forward as a “proposed minor change” for the Examination in Public. The amendment would incorporate a strip to the east within the the red line boundary adjacent to the recreation ground and provide some additional flexibility to plan the building and external areas on that part of the site. This may be accepted as a “minor change” by the Inspector or referred for further public consultation along with any other changes.
- 4.3 Following further discussions, GLL have advised they want to retain and invest in their premises which are leased from the Council. They have confirmed that the existing tennis courts to the east of the sports hall could be demolished as part of the school development and would not need to be relocated to the north (where the parking is now proposed).
- 4.4 This proposal allows for an increase in parking provision in line with planning policy for schools, but remains subject to a full transport assessment that ESFA would carry out as part of the planning process. It is noted that access from the highway as well as parking would need careful consideration. Demand for parking on site would need to be managed although times of highest demand by the public for the park and sports facilities would generally fall outside school opening hours.
- 4.5 It will be necessary to negotiate revised lease arrangements with GLL as well as lease terms for the new school.



- 4.6 Any disposal will be subject to planning consent, which will be sought by ESFA/Greenshaw and they or their consultants will be the applicants and make any appeals. The final proposals will need to seek to minimise impacts upon the openness of the MOL and this will represent a key planning constraint along with the design and traffic/transport issues set out above.
- 4.7 A standard 125 year Academy lease at the usual peppercorn (nil) rent is the expected outcome for the new school. The developer of the new school will be ESFA through its commercial arm and consultants/contractors. The tenant following delivery will be Greenshaw Learning Trust. Legal and/or planning contractual arrangements will protect public use of facilities as far as possible.
- 4.8 The Council has powers under the General Disposal Consent 2003 to dispose of land at less than “the best consideration reasonably obtainable” as long as certain criteria set out in section 6 below are met. It is considered that this disposal meets the social well-being criterion and therefore as long as the amount of the undervalue is less than £2m, Committee may agree to dispose of the land on the basis of a lease at nil rental or premium. This would not require the additional consent of the Secretary of State.
- 4.9 The Head of Asset Management advises that the undervalue would not exceed the £2m threshold. This is reported further in Appendix B (exempt).

## **5. Options Considered**

- 5.1 Options for the delivery of the school were extensively assessed and consulted upon as part of the Local Plan process. That process confirmed that this location was one of the two most suitable sites for a new secondary school both in terms of suitability and deliverability. The planning process will address the balance between school requirements and objections received especially in relation to metropolitan open land and the draft local plan proposals.
- 5.2 A possible solution could have been proposed without impinging on the area let to GLL but this would have resulted in a much greater impact upon open space as the original feasibility study carried out by the Council indicated.

## **6. Impacts and Implications**

### Financial

- 6.1 If school proceeds successfully the Education and Skills Funding Agency (ESFA) will fund the build cost of the new school on the Rosehill site. The Council will receive a peppercorn rent for the lease of the site for the school development.



### Legal

- 6.2 The proposed new school will be a new provision academy school established under the Government's free school programme. Academy schools are publicly funded independent schools established by agreement with the Secretary of State under the Academies Act 2010.
- 6.3 The Council has a duty under section 14 of the Education Act 1996 to secure that sufficient schools are available for its area to provide the opportunity of appropriate education for all pupils. It must exercise this function with a view to securing diversity in the provision of schools, and increasing opportunities for parental choice. The capital cost of free schools established under the DfE's free school programme are funded by the DfE through the Education Funding Agency. In view of the Council's duty under section 14 of the Education Act to secure sufficient schools for its area, the Council has power to assist in the establishment of a new free school which meets basic need under section 16 of the Education Act 1996. This provides that for the purpose of fulfilling its functions under the Act, a local authority may establish and maintain schools and may assist any primary or secondary school which is not maintained by them.
- 6.4 The Council has powers under Sections 123 and 127 of the Local Government Act 1972 to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease and granting of easements. The only restriction is that a disposal must be for the best consideration reasonably obtained otherwise consent is required from the Secretary of State.
- 6.5 It is recognised that there are circumstances where it would be appropriate for a local authority to sell or lease land at an undervalue. Under the Local Government Act 1972: General Disposal Consent 2003 the Council may dispose of land at an undervalue without specific consent. The criteria are as follows:
- a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or of all or any persons resident in its area:
    - i) the promotion or improvement of economic well-being
    - ii) the promotion or improvement of social well-being
    - iii) the promotion or improvement of environmental well-being; and:
  - b) the difference between the open market value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000.
- 6.6 A reduction in the GLL demise will require the surrender and re-grant of the lease on the same or similar terms (but with a revised plan of the demise) which will be subject to negotiation between the parties.

## 7. Appendices and Background Documents

Appendix letter	Title
A	Site Plan
B	Exempt information

Background documents
None

Audit Trail		
Version	Final	Date: 5 July 2017
Consultation with other officers		
Finance	Yes	Lyndsey Gamble
Legal	Yes	Edward Broadhurst
Education Service	Yes	Kieran Holliday
Strategic Planning	Yes	Duncan Clarke
Equality Impact Assessment required?	No	N/A