




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

1. Summary

- 1.1 This report seeks authority to progress the necessary arrangements, subject to planning and legal process, to provide a new special educational needs school on a site at Sheen Way, to be operated by Orchard Hill College and Academy Trust, which would replace the current accommodation in Carew Manor.

2. Recommendations

The Strategy and Resources Committee is recommended to:

- 2.1 Approve the principle of a 125 year lease for school development as described in this report, at a peppercorn rent being a disposal at less than best consideration obtainable for the site;
- 2.2 Delegate authority to the Strategic Director - Resources, acting in consultation with the Lead Member for Resources, and subject to planning consent and consultation with residents and Ward Members, to agree final terms and instruct solicitors to enter into legal agreements including a long lease of land at Sheen Way for development as described in this report;

- 2.3 Note that final boundaries for the school and site layout are yet to be agreed, consequently, to delegate authority to the Strategic Director for Resources, in consultation with the Lead Member for Resources, to undertake and conclude such negotiations and instruct solicitors to incorporate the outcome as necessary into the lease and any legal agreement required to document interests in the land.

3. Background

- 3.1 The Council has owned this site (shown edged red on the attached plan at appendix A) since the 1920s. Together with the land edged blue on the plan it was used as a detached playing field by the former Highview Secondary School until 1992. More recently there have been abortive proposals to develop part of the site for housing (circa 2002) and there has been unofficial public access.
- 3.2 The area edged blue on the plan has been used by Highview Primary School as a playing field since around 2012. This is excluded from the proposed long lease for the new school, but the precise boundary may need to be reviewed and amended in line with scheme proposals to be agreed with the Council for the site. There is potential for Highview Primary and the proposed new school to share some facilities.
- 3.3 A school for pupils with special educational needs (SEN) has operated at Carew Manor, Beddington Park as a maintained school until 2013 when the school was converted to an Academy run by Orchard Hill. A premises review by Orchard Hill concluded that Carew Manor was a poor building to meet the needs of pupils at the school. As part of the 2013 Transfer Agreement between the Council, the former Carew Manor school governors and Orchard Hill Trust, the Council undertook to use all reasonable endeavours to support the new school in finding an alternative site and to support its intended exit strategy. The heritage status of Carew Manor and its grounds allows little flexibility and inhibits growth. The building is both costly for the school to maintain and difficult to adapt for the diverse needs of the pupils.
- 3.4 Orchard Hill have worked with the Council to look for a new site or building without success except for the land at Sheen Way. They have secured the support of Education and Skills Funding Agency (ESFA) to the construction of a new school on this site, subject to all necessary consents and approvals. This will enable the school to increase its capacity from 185 to 246 in modern, purpose-built surroundings whilst also extending their age range from 7 down to 5 in line with the increased demand for SEN provision in the Borough.
- 3.5 The Local Development Framework adopted in March 2012 by the Council describes the Sheen Way site as vacant with *de facto* public access. It allocated the site for mixed use as open space and residential but for some time has been safeguarded for a possible primary school. Alternative development is subject to the site not being needed for a school. The 2016 Draft Local Plan approved by Housing, Economy and Business Committee (December 2016) also notes the site as being vacant with *de facto* public access and allocates it for a special educational needs school and open space with no other development envisaged.



4. Issues

- 4.1 ESFA have considered site capacity and confirm in their opinion that it is possible to locate a special school on the site. The study is relatively high level at this stage and any further detail to be developed would be subject to the full range of scrutiny and consultation, which would attach to any planning application being prepared in future. The lease would be conditional on planning consent being achieved for the proposed school buildings. The Council's Statement of Community Involvement recognises that in many cases, consultation with residents ahead of submission of a planning application is required. It is considered that such consultation would be required for this school development. The ESFA or their agents would be responsible for the application and any appeal and would lead on the consultation with residents.
- 4.2 The current round of Central Government funding for new schools include a capital allocation of £14m for this new school following proposals made by the Orchard Hill Academy Trust. It is recommended that the matter be pursued now given the likely availability of funding, which could not be guaranteed at a later date.
- 4.3 The outline proposals submitted at this stage do not yet address the continuation of public access to the site. ESFA have acknowledged the requirement in the Draft Local Plan that allocates the site for a special educational needs school and open space and have agreed to work with the Council to address this issue.
- 4.4 It is recognised that development of this site will be challenging and that residents need to be aware of the proposals and allowed the opportunity to comment on them. Consultation will be expected, in particular on access to open space and implications for vehicle movements and parking. It is proposed that consultation takes place at an early stage in order that residents are given ample opportunity to consider any scheme.
- 4.5 The site has poor access to public transport, and the local road layout is a constraint with limitations for both access and parking. The ESFA are aware of these constraints and acknowledge a solution will need to be found before a planning application can be submitted for the school. This issue will be scrutinised further more formally through the planning process. The majority of pupil journeys to both the current and the proposed school are by minibus, not private car, thereby reducing the number of vehicle movements compared with non-SEN establishments. The intention would be to ensure that minibuses are able to pick up and drop off within the school site to avoid undue disruption to local residents. However, with the narrow and heavily packed access roads, the movement of traffic for both pupils and staff is recognised as a significant concern which will require detailed technical investigation as part of this proposal if it goes ahead. Ongoing travel planning will likewise need careful consideration.
- 4.6 The playing field to the west of the larger site (edged blue on the appendix A plan) is used exclusively by Highview Primary School. The capacity study undertaken by ESFA demonstrates that the new school can be accommodated on the site edged red. Further work on proposals and discussions around potential shared use of facilities by both schools, and the requirement for public open space will require changes to the boundary.



- 4.7 The ESFA have a standard set of terms that are included in leases for new Academy Schools, with adjustments made for matters that are specific to individual sites. Preliminary discussions with ESFA on terms for a lease have reached a point from which it should be possible to enter into contracts conditional on planning at an early stage if approved by Committee. This envisages the grant of a long lease at a peppercorn with a development agreement/agreement for lease. Site development costs and activities would be the responsibility of ESFA.
- 4.8 Legal advice confirms that 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 the purpose of this disposal meets the social well-being criterion and therefore as long as the amount of the undervalue is less than £2m, Committee may support the recommendation to dispose of the land on the basis of a peppercorn lease without requiring the consent of the Secretary of State.
- 4.9 The Head of Asset Management advises that the undervalue would not exceed the £2m threshold and the figure is reported in Appendix B (exempt).
- 4.10 The school is anticipated to grow from the current roll of 185 to 246 over a number of years in line with the expected need for places in the borough. Additional SEN places are a cost to the Dedicated Schools Grant (DSG) as there are revenue costs associated with running the school. At present the Council receives place funding for the 185 pupils currently attending the existing school but it is not clear whether ESFA would fund the additional 61 places at £10k per place or expect the Council to fund this from the existing DSG allocation. To mitigate this risk, and in supporting the Free School application made by Orchard Hill, officers stated that the Council would only commission the additional 61 places from the school if the ESFA were to fund the ‘place funding’ costs of the provision (£10k per pupil).

5. Options Considered

- 5.1 A number of other sites have been assessed for the new special school. The OHC has assessed the suitability of a number of Council owned sites and property. Feasibility proposals were commissioned and developed for locating the school at the site of the former Wallington Public Hall but following pre-application consultation, these were not taken forward as it would have resulted in over-development of the site. Doing nothing would fail to meet the Council’s obligations to Orchard Hill with regard to finding alternative premises and would mean the school remaining in unsatisfactory accommodation at Carew Manor.

6. Impacts and Implications

Financial

- 6.1 If agreed the Education and Skills Funding Agency (ESFA) will fund the build cost of the new school on the Sheen Way 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 Under section 77 of the School Standards and Framework Act, Secretary of State consent is required for the disposal of land which is or has in the last 10 years been used as playing fields by a maintained school. Consent is also required under the Academies Act for the disposal of any land used wholly or mainly for the purposes of a school. This will apply to any disposal of land currently used by Highview Primary School.
- 6.5 The Council have 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.
- 6.6 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.
- 6.7 Under the Local Government Act 1972, the Council is required to advertise the intention to dispose of Open Space land as defined by the Open Space Act 1906 in a local newspaper for two



consecutive weeks and then consider any representations in respect of the disposal which may have been made.

- 6.8 The Council therefore need to consider whether they fulfil the criteria above, in particular in relation to the value of land. If it is valued over £2,000,000, Secretary of State consent is required.
- 6.9 Legal services should be consulted to provide ongoing advice on this project as and when required.

Equalities Impact Assessment

- 6.10 A new school for SEN pupils will provide new learning and development facilities for over 200 students with a wide range of ability levels and additional learning needs, including complex special needs.

7. Appendices and Background Documents

Appendix letter	Title
A	Plan
B	Exempt information

Background documents
None

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