

REPORT FOR: **CABINET**

Date of Meeting:	10 April 2014
Subject:	Whitchurch Playing Fields - Free School
Key Decision:	Yes
Responsible Officer:	Caroline Bruce, Corporate Director of Environment and Enterprise Chris Spencer, Interim Director of Children's Services
Portfolio Holder:	Councillor Stephen Wright, Portfolio Holder for Property and Major Contracts Councillor Janet Mote, Portfolio Holder for Children and Schools
Exempt:	No
Decision subject to Call-in:	Yes
Enclosures:	Appendix 1 - Site plan Appendix 2 Community Use Agreement (to be agreed - draft example)

Section 1 – Summary and Recommendations

This report sets out property proposals for the establishment of a free school at Whitchurch Playing Fields.

Recommendations:

Cabinet is requested to

- 1) Delegate authority to the Corporate Director, Environment & Enterprise in consultation with the relevant portfolio holders to:
 - a) Enter into an agreement for lease with a free school which is most likely to be Avanti Schools Trust subject to grant of planning consent for the creation of a free school;
 - b) Agree the terms of a 125 year lease at a peppercorn rent subject to the construction of the school and ancillary works;
 - c) Negotiate and agree the terms of a community use agreement to form part of the lease

Reason: (For recommendation)

To enable the local authority to fulfil its statutory duties to provide sufficient school places in its area and enter into the necessary lease agreement for the land.

Section 2 – Report

Background

Whitchurch Playing Fields and Pavilion

Whitchurch Pavilion has remained vacant since it was fire damaged some eight years ago. Prior to this it was used as changing facilities in connection with the adjacent 25 acre playing fields. The playing fields are used on a much reduced basis since the closure of the pavilion and more recently temporary portastore changing facilities. The playing fields are in poor condition requiring levelling and drainage improvements.

November 2011 Cabinet authorised the appointment of the Whitchurch Fields Consortium as the Council's preferred bidder for the site and at the Cabinet in June 2012 resolved that the Whitchurch Consortium be commissioned to develop a community sport and leisure facility, subject to agreement of terms.

Cabinet on 22nd November 2012 considered the proposed terms which had been negotiated and authorised the Corporate Director of Place Shaping in consultation with the Portfolio Holder for Property and Major contracts to conclude contractual arrangements.

An application was received by the Council to register the Whitchurch Playing Fields as a Town and Village Green which necessitated the Whitchurch Consortium project being put on hold until the application was determined. The evidence put forward to the Public Inquiry showed that in recent times the sports pitches had been used mainly by the wider community, including a variety of local sports clubs, although it was apparent that there was still an element of regular schools use. Having heard all the evidence, the inspector to the Inquiry recommended that the application was refused, which was subsequently confirmed by a decision of the Council's Licensing Panel towards the end of 2013.

If the council wish to progress the Whitchurch Consortium project, it is considered that an application to the Secretary of State would be required for consent to grant a long lease under s77 of the School Standards and Framework Act 1998 because of the established school use.

Avanti House

The government announced that a free school, Avanti House, would open in Harrow or Barnet in Autumn 2011. Avanti House is an all through school, with pupils aged from 3-18 in Reception classes to Year 13. The school will have 420 pupils in total in the primary phase (Reception to Year 6 classes) 900 pupils in total in the secondary phase (Year 7 to Year 11) plus sixth form pupils.

The school was opened on a temporary basis on two sites in Harrow in September 2012 while a permanent site was secured by the Education Funding Agency (EFA). The primary phase is located on part of the Krishna Avanti Primary School. The secondary school is located on the former Peterborough and St Margaret's School site. The EFA have been trying to secure a site for the school since the original announcement.

The Council have now been approached by Avanti House/and the EFA with a view to using Whitchurch Playing Fields for the purposes of constructing a new Secondary Academy Free School of 1280 pupils. On 27th March 2014 confirmation was received in writing from the EFA that they wished to proceed with the lease subject to terms.

Introduction

1. The Local Authority has a statutory responsibility to provide sufficient school places for its area. There are several key strands to the delivery of sufficient school places because an increasing pupil population impacts across primary, secondary and special school provision. The Cabinet has agreed and is implementing Phase 2 of its Primary School Expansion Programme proposals, and has agreed a

Special School and SEN Placement Planning Framework and Secondary School Place Planning Strategy.

2. This report sets out proposals that will increase the number of secondary and primary school places in Harrow by enabling the permanent location of Avanti House, or another free school promoted by the EFA, at Whitchurch Playing Fields,

Options considered

Primary School Expansion Programme

3. The Council commissions the Greater London Authority (GLA) to provide projections. Officers review the projections and adjust as necessary to ensure that the projections reflect the experience of schools and the Admissions Service.
4. Officers are developing options for Phase 3 of the Primary Expansion Programme in the context of the agreed school expansions in Phase 2, on-going review of the projections and other free school developments.
5. The updated 2013 primary school projections, reported to Cabinet in November 2013, indicated the same trend in the increased demand for reception places, with demand slightly higher than previously forecast and peaking in 2018/19. The high level of demand is then predicted to continue with a slight and gradual reduction thereafter.
6. The projections indicate that a third phase of primary school expansions will be needed to meet the increased demand from 2016 onwards.
7. The final number of permanent classes will be informed by:
 - The decision making process for the proposed Phase 2.
 - The permanent location of Avanti House.
 - Any free school bids that are successful within Harrow.
8. The Phase 2 proposals agreed by Cabinet in March will provide an additional 12 reception classes across Harrow. A further expansion is being considered by Cabinet at their meeting in April. If this is agreed, then there will be a further 9 forms of entry required to meet the peak in demand in 2018/19. If Avanti House primary school is located in Harrow permanently then the 2 forms of entry (60 reception places) will contribute to the projected shortfall.

Secondary School Expansion Programme

9. The annual Demographic School Roll Projections Report also includes the projections for secondary pupils. The overall number of pupils in secondary schools has been declining since 2005 as has the number of Year 7 pupils. The Year 7 decline in numbers has created a high level of vacancies concentrated in a small number of schools which

has led one school to review and reduce its planned admission number.

10. However, this position will change. Harrow started opening additional reception classes in September 2009 and this increase in primary pupil numbers will impact on the secondary schools from September 2016 when there is an increase of 120 pupils in Year 7 which will exceed the available places. The projections for Year 7 then continue to increase by 640 from 2,301 in September 2016 to 2,828 in September 2021. The projections assume that there will continue to be approximately 85% of in-borough Year 6 students transferring to Year 7 places in Harrow secondary schools.
11. These projections pose a considerable challenge to ensure sufficient future secondary school places in Harrow. Taking September 2014 as a baseline of 2,150 permanent Year 7 places, the shortfall of Year 7 places required to meet projected demand in September 2021 would be 690 places or 23 forms of entry.
12. The Secondary School Place Planning Strategy details the projections and the shortfall of places. It outlines how it is proposed to increase capacity within the secondary sector by September 2015 for the demand expected by September 2018. It was agreed by Cabinet in November 2013.
13. The aim of the Secondary School Place Planning Strategy is to ensure that there are sufficient secondary school places in Harrow. The Strategy brings together the strategic planning of the Local Authority and individual school development planning.
14. There are a number of options to increase secondary school capacity, including:
 - Expand existing high schools.
 - Bring forward proposals for new free schools.
 - Expand and extend the age range of primary schools.

Phase 1 of the Secondary School Place Planning Strategy

15. The Secondary School Place Planning Strategy outlines a Phase 1 that comprises three strands to increase the capacity in the secondary sector required by September 2018. Together these projects would deliver 12 permanent forms of entry by September 2015 in line with the current known funding timescales.

The three Phase 1 strands are summarised as follows:

Strand	School	Year	Additional Year 7 Forms (places)
Strand 1	Expansion of Bentley Wood High School	September 2014 (included in the 2,150 places from Sept 2014)	1 (30)

Strand 2	Harrow Teachers' Centre and Whitefriars Community School secondary provision	September 2015	5 (150) These places will fill over time starting with 60 in 2015
Strand 3	Free School Bid	By Sept 2015 at the earliest (subject to approval by DfE and identification of site)	6 (180) If located at Heathfield School site

16. Strand 1 and 2 are currently being implemented and free school bids are being developed for Strand 3 with two proposers developing bids for a free school on the Heathfield School site. The Secretary of State will decide if these bids are successful and implemented.

Phase 2 of the Secondary School Place Planning Strategy

17. Phase 1 would deliver up to 11 further permanent forms of entry (Bentley Wood is already counted in to the 2014 baseline) towards the 2021/22 shortfall of 23 forms of entry and would meet the demand for places up to 2018/19. The actual number of Year 7 places required for a Phase 2 is partly dependent on the permanent location of Avanti House School and other places available in existing and new schools in the local area.
18. If Avanti House is permanently located in Harrow, the secondary places would contribute to the overall increase and there would be up to an additional 180 places. Together with strands 1-3 of the Strategy in Phase 1 this would provide 17 additional permanent Year 7 classes.
19. Though the contribution of free school places to help meet the projected demand would be significant, it is likely that a proportion of the places would be filled by students resident outside Harrow. The Heathfield School site is on the border with Hillingdon and could be expected to draw students resident in that borough. Avanti House would be likely to attract up to 120 students from its primary phase and from Krishna Avanti Primary School. However, the school draws from a wide area and it is also likely that a proportion of the places would be filled by students resident outside Harrow.
20. If a free school is not built on Whitchurch Playing Fields then the Council would have to provide the required secondary school places in another way which may mean that the Council will have to build an additional secondary school at its own expense since central Government funding could not be guaranteed.

Conclusion and Options

21. Option 1 – The Council does not pursue the free school proposal on Whitchurch Playing Fields and either leaves the playing fields as is or proceeds with the Whitchurch Consortium proposal, (subject to

approval from the Secretary of State). If the Council pursues this option then it will have to explore other proposals to provide the required secondary school places.

22. Option 2 – Try to identify a free school operator that will purchase the site from the Council, i.e not on a peppercorn. If the Council pursues this option then it may not receive the additional benefit of a community use agreement which will provide for additional facilities for use within the borough.
23. Option 3 – Pursue the development of a free school on the site, most likely Avanti Schools Trust, with disposal of the site at a peppercorn consideration. This will allow all monies to be channelled into the building of a school with excellent community facilities available to the borough at a minimum cost and will avoid the possibility of Harrow Council having to fund these required additional school places itself.
24. It is considered to be prudent to secure the additional places provided by Avanti House or another EFA – supported free school as part of the strategy to increase provision in Harrow, for reasons that include:
 - a second phase of additional secondary school forms of entry will be required and all opportunities to secure additional places should be pursued as they arise;
 - the potential to increase secondary school places within existing sites is very challenging;
 - there are no immediately available sites in Council ownership for new secondary schools other than Whitchurch Playing Fields;
 - although there would be a surplus of places from September 2015, by September 2019 the projections will match the number of places more closely.
25. The proposal would be subject to planning consent being granted for the proposed school on the site. The Council would consider any planning application prepared by the Avanti Trust / the EFA in its separate statutory capacity as Local Planning Authority. Local residents affected by the proposed development would be consulted and will have the opportunity to make representations as part of the planning process.
26. These proposals will mean that the Whitchurch Consortium plans cannot proceed as they are currently envisaged.

27. **Recommendation**

It is recommended that the Council enters into an agreement for lease with a free school, likely to be Avanti Schools Trust subject to:

- The Council using its best endeavours to maximise community use by the conclusion of a detailed community use agreement incorporating agreed upgrade works to the playing fields, provision of artificial pitches, access to the sports facilities within the school including any proposed

MUGA and gym facilities. A substantial element of free use to be incorporated within the agreement, the agreed draft to form part of the agreement for lease

- Agreement on the terms of a 125 year lease at a peppercorn rent
- The lease to be granted subject to completion of the construction works so that the Council can protect its position and ensure that the school is delivered.

Legal Implications

28. The Council has a statutory duty under the Education Act 1996 to ensure the provision of sufficient schools for the provision of primary and secondary education in their area.

Under s.14 of the Education Act 1996, a local authority shall secure that sufficient schools for providing primary and secondary education are available in their area. Sufficient means sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education.

In meeting this duty, a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

Under current Government policy new schools will be established as 'free schools' and will be academy trusts directly funded by Central Government which are not subject to day to day local education authority control. In meeting its overall duty to secure sufficient school places, the Council therefore needs to work with free school providers in relation to the establishment of new schools, and this may include the provision of appropriate local authority sites.

Where there has been an element of regular school playing field use alongside wider community use, a disposal or change of use to a non playing field use will require secretary of state consent under s77 of the School Standards and Framework Act 1998. However, unless a site has been used wholly or mainly during the last 8 years for the purposes of a school, it is not automatically designated academy land for the purposes of Schedule 14 of the Education Act 2011.

The Council has general discretion under s123 of the Local Government Act 1972 to dispose of land assets that it holds. The particular duties in s123 to obtain best consideration and advertise the disposal of open space do not apply in relation to the disposal of land for the purpose of an academy.

The Council must ensure that it meets its public law duties when making decisions, including meeting its public sector equality duty. It must consider all relevant information, disregard irrelevant information, act in accordance with the statutory requirements and make its decision in a fair and transparent manner.

Financial Implications

29. There is minimal financial implication on revenue budgets with the proposed agreement for lease with a free school. A small revenue income is currently generated from the use of the site as sports pitches by schools and local community. However this is fully offset by the maintenance costs. The proposal will remove ongoing liability for running and maintaining Whitchurch Playing Fields from the Council, creating a revenue saving of circa.£5,000 within Parks Services.

The demolition and associated remedial works connected with the derelict pavilion are estimated at £80,000. This cost would be met by EFA/DfE if the proposal was agreed. EFA/DfE would also be responsible for the costs of planning application and construction of the new school on the site.

Financial risks should also be considered as it is possible that the council may face a financial claim from the Whitchurch Consortium in respect of their abortive costs in developing the scheme previously approved by Cabinet. It is not possible to quantify the claim at this stage.

Performance

30. Schools in Harrow perform well in comparison to national and statistically similar local authorities. The vast majority of primary schools and secondary schools are judged 'good' or 'outstanding' by OfSTED. 92% of Harrow's primary and secondary schools are judged 'good' or 'outstanding', compared to 85% in London and 78% nationally.
31. The Schools White Paper and Education Act 2011 maintain a focus on driving up standards in schools, and place more of the responsibility with the schools directly for their improvement. The role of the Local Authority in measuring performance and driving improvement has changed significantly and is reduced from its previous level. However, the Local Authority maintains a strategic oversight and enabling role in local education, and is likely to retain some role in monitoring educational achievement and key measures such as exclusions and absence. The Local Authority is also statutorily responsible for supporting and improving underperforming schools.
32. The Local Authority continues to monitor key education indicators. The indicators are used locally to monitor, improve and support education at both school and local authority level. They are also used within information provided to the DfE.

Key Stage 2	Year	Reading, Writing & Maths L4+	KS1-KS2 Expected Progress - Reading	KS1-KS2 Expected Progress - Writing	KS1-KS2 Expected Progress - Maths
Harrow	2012	79%	91%	93%	90%
National		74%	90%	90%	87%
Harrow	2013	79%	90%	92%	92%
National		75%	88%	92%	88%

Source: DfE Statistical First Release

Key Stage 4	Year	% 5 A*-C grades inc E&M	KS2-KS4 Expected Progress - English	KS2-KS4 Expected Progress - Maths
Harrow	2011	64.6%	80.9%	80.1%
National		58.4%	73.1%	65.9%
Harrow	2012	63.6%	82.3%	80.4%
National		59.1%	69.3%	69.9%
Harrow	2013	65.4%	79.7%	83.3%
National		60.8%	71.7%	72.0%

Source: DfE Statistical First Release

33. The indicators fall within the following areas:

- Attendance and exclusions - remain a statutory duty for the Local Authority to monitor and improve.
- Underperforming schools – schools are assessed at Key Stage 2 & Key Stage 4 against defined floor standards.
- Closing the Gap - is a fundamental part of Ofsted's school inspection process, and accordingly, the Local Authority monitors the attainment of identified groups of pupils in its schools. The table below includes the gap at key stage 2 between pupils eligible for free school meals and their peers and the gap between Harrow's SEN children and their peers – children with a SEN provision includes School Action, School Action Plus or a Statement.

2013 Key Stage 2 – Closing the Gap	Harrow	National
Achievement gap between pupils eligible for free school meals and their peers, based on pupils achieving level 4 or above in Reading, Writing and mathematics at Key Stage 2.	17%	19%
Achievement gap between pupils with special educational needs and their peers, based on pupils achieving level 4 or above in Reading, Writing and mathematics at Key Stage 2.	49%	53%

2012 Key Stage 4 - Narrowing the Gap	Harrow	National
Achievement gap between pupils eligible for free school meals and their peers, based on pupils achieving 5 or more A* to C grade GCSEs including English and mathematics GCSEs.	28.8%	26.4%
The Special Educational Needs (SEN)/non-SEN gap – achieving 5 A* - C GCSE inc. English and Maths GCSEs.	46.3%	47.0%

34. There is a complex interrelationship between a number of other performance issues such as traffic congestion, road safety, traffic and parking enforcement and travel plan performance, as referred to earlier in the report, and all these considerations are taken into account in assessing school expansion proposals.

Environmental Impact

35. The Council's over-arching climate change strategy sets a target to reduce carbon emissions by 4% a year. Schools account for 50% of the council's total carbon emissions. Reducing emissions from schools is therefore a vital component in meeting the Council's target. However there is a significant risk that the expansion programme will increase emissions rather than reduce them. Phase 2 of the School Expansion Programme will have an impact on carbon emissions that will need to be carefully considered in this context.
36. The RE:FIT Schools Programme will be available to retrofit existing school buildings to improve their energy efficiency. For new-build schools, the design standards will need to ensure that they meet high energy use efficiency standards. Of particular importance will be the use of low carbon technologies – particularly for space heating – and these will need to be thoroughly investigated during the design phase.
- 37.. Secondary schools procured through the Building Schools for the Future capital programme are required to achieve a BREEAM (or equivalent) 'Very Good' rating.

Risk Management Implications

38. The risk management implications for the council arising from school place planning are included on the Children and Families directorate and corporate risk registers.

Equalities implications

- 39.. Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to (1) eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act, (2) advance equality of opportunity and (3) foster good relations between persons who share a protected characteristic and persons who do not share it.
- 40.. An Equalities Impact Assessment has been undertaken on the proposal to accommodate Avanti House Free School within the borough and located on the Whitchurch Playing Fields . The overall conclusion of these assessments is that the implications are mainly positive for age, race and religion/faith as follows:
- The proposed new school could mitigate against the estimated lack of secondary Year 7 places in Harrow from 2016 onwards. Without additional Year 7 places available at that time, Harrow secondary age children and young people may not be able to be placed at Harrow schools, impacting on the family as a whole.
 - There are no Hindu faith based schools in Harrow at the moment although there a number of other faith based schools. Therefore these proposals could impact positively on residents of Indian or Asian backgrounds or practising Hindus who wish to provide their children with education within a Hindu environment.

However there is a potential adverse impact for race and faith as follows:

- These could have a negative effect to other communities if the school does not offer an open application system for all. This is mitigated by the admission policy of the school which asserts that admission will be by pupils of any or no faith.
41. The assessments have not identified any potential for unlawful conduct or disproportionate impact and conclude that all opportunities to advance equality are being addressed. However, a further consultation on the new location proposed should be undertaken.

Corporate Priorities

42. This report incorporates the corporate priorities to deliver a cleaner, safer and fairer Harrow by:
- Ensuring Harrow Council fulfils its statutory duties to provide sufficient school places in its area.
 - Providing high quality local educational provision in schools for children close to where they live.

Section 3 - Statutory Officer Clearance

Name: Jessie Man

on behalf of the
Chief Financial Officer

Date: 31 March 2014

Name: Matthew Adams

on behalf of the
Monitoring Officer

Date: 27 March 2014

Section 4 – Performance Officer Clearance

Name: David Harrington

on behalf of the
Divisional Director
Strategic
Commissioning

Date: 31 March 2014

Section 5 – Environmental Impact Officer Clearance

Name: Hanif Islam

on behalf of the
Corporate Director
(Environment &
Enterprise)

Date: 31 March 2014

Section 6 - Contact Details and Background Papers

Contact: Philip Loveland Cooper
Head of Service - Corporate Estate
d/I 0208 424 1877 x2877
Philip.loveland-cooper@harrow.gov.uk

Background Papers:

Cabinet Report Nov 2008

<http://moderngov:8080/ieDecisionDetails.aspx?ID=1622>

Cabinet Report Nov 2011

<http://moderngov:8080/ieDecisionDetails.aspx?ID=60484>

Cabinet Report June 2012

<http://moderngov:8080/ieDecisionDetails.aspx?ID=60583>

Cabinet Report Nov 2012

<http://moderngov:8080/ieDecisionDetails.aspx?ID=60659>

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

[Call-in applies]