

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 9th March 2015

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WARD(S): All

PORTFOLIO: Councillor Rob Anderson, Leader of the Council and
Commissioner of Finance and Strategy
Councillor Pavitar Kaur Mann – Commissioner for Education
and Children

PART I **KEY DECISION**

AGREEMENT TO DISPOSE OF TWO SITES FOR FREE SCHOOLS

1 Purpose of Report

The purpose of this report is to seek approval to:

- Agree a final financial contribution from the Education Funding Agency (EFA) towards the relocation costs of the Creative Dance Academy and new facilities for St Joseph's Catholic High School,
- Dispose of land at Castleview, by granting a long-term lease to the school's trust for the location of Ditton Park Academy, and
- Dispose of land at the former Arbour Vale site, by granting a long-term lease to the Secretary of State for the location of Lynch Hill Enterprise Academy.

2 Recommendation(s)/Proposed Action

Cabinet is requested to resolve:

- (a) That the Chief Executive following consultation with the Leader of the Council and Commissioner for Education and Children is given delegated authority to:
 - i) finalise the agreement between the Council and the EFA regarding the EFA's contribution to the accommodation works required in order that the Lynch Hill Enterprise Academy project can proceed on the former Arbour Vale site (specifically, relocation of the Creative Dance Academy, internal remodelling for St Joseph's to provide replacement classrooms and a dance studio, a new 4-court sports hall and MUGA), and
 - ii) agree the sum that Slough will contribute to deliver these projects.
- (b) That any contribution from Slough towards the accommodation works will be financed from Basic Need grant.
- (c) That Officers proceed with the accommodation works once contracts are exchanged for Lynch Hill Enterprise Academy.
- (d) That land near Castleview is leased to the Trust of Ditton Park Academy for a new school.
- (e) That land formerly used by Arbour Vale School is leased to the Secretary of State for use by Lynch Hill Enterprise Academy.

3 Slough Wellbeing Strategy Priorities

Priorities:

- **Economy and Skills** – the delivery of school places for Slough residents will support delivery of skills and qualifications to young people in Slough and improve their life chances. However some uses of land may have greater value to the town's economy if used for purposes other than education.
- **Health and Wellbeing** – the delivery of well-designed schools with adequate outdoor space will provide an opportunity for young people to live active lifestyles and contribute to improved fitness and the reduction of childhood obesity and other health risks.
- **Regeneration and Environment** – using land to deliver school places may have regeneration value and may deliver environmental improvements or damage, e.g. through increased traffic levels. Other uses may have higher regeneration value and different environmental consequences.

4 Joint Strategic Needs Assessment (JSNA)

- 4.1 Slough's School Places Strategy will support the JSNA by ensuring sufficient school places are available for all resident children. Free Schools are part of the range of solutions for providing the new places required to 2022.
- 4.2 The number of children with Statements of Educational Need (SEN) requiring specialist resourced provision and special school places is rising slightly faster than the general population. Adding an SEN unit for secondary pupils at Ditton Park Academy will create the first of a number of new units that will be required to meet the rising demand.

5 Other Implications

(a) Financial

- 5.1 Whilst responsibility for ensuring sufficient school places rests with Slough, the EFA provide annual allocations of Basic Need capital grant for Slough to deliver sufficient places to fulfil its statutory obligation. The construction cost of two new 6-form entry secondary schools with sixth forms would cost the Council circa £36m. Slough would effectively receive two new secondary schools at no cost to the Authority.

As Free Schools are externally funded by the government, these two Free School projects will allow us to defer current Basic Need funding for future projects. A proportion of this unallocated funding will be used to provide the balance of funding towards the accommodation works required at St Joseph's and the Orchard Youth and Community Centre (YCC). Basic Need grant will also be used to fund the new SEN unit at Ditton Park Academy which has previously been agreed by the Cabinet.

Castlevue Site

- 5.2 The EFA has agreed to purchase the land near Castlevue for use by the Ditton Park Academy. An independent valuation has been undertaken which confirms that the sum received from the EFA reflects the best value valuation for the site (refer to Appendix A – Part II as it contains exempt information).

Part of the Arbour Park site

- 5.3 The Secretary of State has powers to make a scheme providing for the transfer of the freehold or a grant of a lease of part of the former Arbour Vale School footprint to an Academy. The Secretary of State would not require approval from Slough as part of the land has been used for educational purposes; this applies until July 2015 for the non-playing field areas and July 2017 for playing field areas. There is a difference of opinion between Slough and the Department of Education (DfE) as to the extent of land that could be subject to a lawful application of scheming powers; however the current arrangement is expected to provide a satisfactory conclusion for both parties and avoid the need for any dispute on the matter. On this basis no value has been attached to the transfer of this site for a Free School.

St Joseph's Enhancements

- 5.4 In order to allow the Council's proposed Community Sports Facility to proceed, changes are required to the playing fields of St Joseph's. A number of enhancements have been agreed with the school to secure their support for the changes.
55. Subject to Ministerial approval the EFA has agreed to contribute funding towards new facilities at St Joseph's including a new 4-court sports hall, MUGA and conversion of the current hall to classrooms and dance studio. It is anticipated that formal confirmation on the level of funding will be received before the end of March 2015.

Relocation of the Creative Dance Academy to Orchard YCC

- 5.6 A similar situation surrounds the relocation of the current users of the West Wing. Whilst the Curve will offer a new performance space, the day-to-day activities of the Creative Dance Academy will move to the former Orchard YCC, which will require conversion as well as a degree of refurbishment. Subject to Ministerial approval the EFA has agreed to make a substantial contribution towards this relocation. As above, it is anticipated that formal confirmation on the level of funding will be received before the end of March 2015.
- 5.7 The intention is to fund any shortfall from the EFA, towards the works required at the Orchard Centre and St Joseph's, by using unallocated Basic Need grant.
- 5.8 The West Wing Arts Centre was partly refurbished using funding from the Department of Culture, Media and Sport's "Space for Sports and Arts Initiative", now administered through Sport England. The conditions of the grant award require that the venue should operate as an arts facility for 21 years (from 2004). Based on feedback in 2009, if the Council were to replace the facilities (in this case through the combination of the Orchard Centre and the Curve) and they meet the benefits offered by the original facility, Sport England would be 'sympathetic' to an approach from the Council to relocate the facilities and not seek a partial repayment of this funding.

Risk Management

5.9

Risk	Mitigating action	Opportunities
<p>Legal Challenge from St Joseph's.</p> <p>Challenge to Class Consent changing playing field layout.</p>	<p>Enhancements have secured St Joseph's support for the project.</p> <p>Community Sports Facility pitch remains school playing field.</p> <p>Period for challenge has passed.</p>	<p>Community to benefit from use of new sports hall out of school hours.</p> <p>St Joseph's will have access 10 hours a week to the new 3G pitch.</p>
<p>Property Other sites considered by the DfE.</p> <p>Projects delayed and temporary school sites used for 2 or 3 years.</p>	<p>Work with DfE to secure former Arbour Vale and Castlevale sites.</p>	<p>New schools and sports facilities will support the wider regeneration of the areas and contribute to the Leisure Strategy.</p>
<p>Human Rights Challenges from specific interest groups.</p>	<p>Appropriate consideration and consultation.</p>	
<p>Health and Safety Traffic risks.</p>	<p>Commission transport surveys and sound transport planning.</p>	
<p>Employment Issues</p>	<p>There are potential issues linked to the requirement to relocate the West Wing.</p>	
<p>Equalities Issues Challenges</p>	<p>Ensure needs of all parts of community are considered and balanced in the school places strategy.</p>	
<p>Community Support Risk of objection.</p>	<p>Communicate scale of the school places problem and benefits.</p> <p>Full planning process will be followed for both sites.</p>	
<p>Communications Risk of objection.</p>	<p>Develop an effective communication plan.</p>	
<p>Community Safety</p>		
<p>Financial Site issues deter future Free School promoters/approvals.</p> <p>Funding gap is larger than expected.</p>	<p>Identify sites and work with appropriate Free School promoters.</p> <p>Obtain realistic market estimates from the SRP.</p> <p>Set aside adequate Basic Need funding.</p>	<p>Supporting appropriate Free School promoters.</p> <p>Sources of funding for improving St Joseph's facilities otherwise limited.</p>

SBC may need to repay up to 50% of the grant received to refurbish the West Wing.	Liaise with Sport England and enter new agreement for replacement facilities.	New facilities provided for the community.
Planning School's Trust is refused planning permission for Castleview. Green belt call-in by the Secretary of State for one or both of the Arbour Vale planning applications.	This is a risk for the DfE, although it does impact on plans to reinvest the capital receipt. Carry out detailed alternative site appraisal to support current site.	Consider developing the Castleview site for housing and realise the best value valuation described in 5.2 above.

(b) Human Rights Act and Other Legal Implications

5.10 There are no Human Rights Act Implications of the proposed action. The Council will be required to follow its governance requirements in any decision making that has implications for the Council or any assets it holds or has an interest in.

In the case of the land at Castleview, the Council have power under Section 123 of the Local Government Act 1972 to dispose of it in any manner they wish provided they do so for a consideration no less than the best that can reasonably be obtained.

There is an overarching Council requirement to ensure the holistic redevelopment of land at the former Arbour Vale School site. As such, although the disposals of both Castleview and land at Arbour Vale are contingent on the Council's overarching requirements being met, it is important to note that no part of the Council or indeed the DfE is able to fetter the discretion of any decision maker.

(d) Equalities Impact Assessment

5.10 The proposals have a positive impact since they enable an increase in the number of school places across the borough, improving access and choice for all. They specifically increase access to SEN education and increase access to SEN education in a mainstream setting. They also increase community access to sports provision.

(e) Property Implications

5.11 There are several issues relating to vacating of the former Arbour Vale School site:

- a) Private tenants of the West Wing have been issued with notices to quit to secure vacant possession of the West Wing.
- b) The Youth Service will relocate to St Martins Place by the end of April 2015.
- c) The relocation of the Creative Dance Academy will be dependent on completion of the works at the Orchard YCC. The completion time for these works, once the contractor is appointed, is 5 months. This may delay the completion of the lease although exchange of contracts with the EFA and school trust is not dependent on vacant possession.
- d) Irrespective of the outcome of negotiations with the EFA, the combination of a-c above means that the West Wing is no longer viable as a stand alone asset.

- e) There will be a period when there is no public performance space while the Curve is being finalised (June – December 2015). The performance space created in the Curve will be used to stage performances by the Creative Dance Academy. This has affected any scheduled bookings for the performance space.
- f) An Orange telecommunications aerial on the site needs to be relocated before the lease at Arbour Vale can be completed, although exchange of contracts with the EFA and school trust can proceed. This process is ongoing.

6 Supporting Information

- 6.1 A report to Cabinet on 14th April 2014 approved delegation of powers to the Chief Executive following consultation with the Leader and the Commissioner for Education and Children, to conclude an agreement with the DfE on the land near Castleview and land at Arbour Vale. A further report to Cabinet dated 15th September 2014 approved the agreement of Heads of Terms for both the Castleview and former Arbour Vale sites.
- 6.2 It was agreed that a final paper would be brought back to Cabinet to seek approval to dispose of the sites once the terms of the transaction were finalised. The intention was to present the Cabinet with a comprehensive cost breakdown and contribution requirements for the works at St Joseph's and the Orchard Centre; however it has not been possible to establish the costs in time for this report. This situation is a result of a) the delay in securing formal confirmation from the EFA (as described in section 5) and b) the Council awaiting detailed budget costs from the SRP to undertake the accommodation works and build the new 4 court sports hall.
- 6.3 There is some pressure to exchange contracts as the EFA need to provide sufficient classrooms on the former Arbour Vale School site before September 2015 when Lynch Hill Enterprise Academy will admit further year 7 pupils. In September 2014 Lynch Hill opened additional classrooms on their primary school site to accommodate the first intake of pupils. It would be immensely difficult to install another 3 or 4 secondary school classes on that site for September 2015.
- 6.4 The Assistant Director, Community & Skills will develop and present a business case to the Capital Strategy Board by June 2015 to secure capital to build the planned Community Sports Facility.
- 6.5 A flowchart showing the steps to completion of the Free School leases and completion of the associated works by Slough is attached as Appendix B.

Class Consent

- 6.6 Since the previous report to Members, Slough has submitted a Class Consent to change the playing fields of St Joseph's Catholic High School from 1st January 2016 onwards. A Class Consent is permissible where a school will have the same area of playing field after a change as before and where sporting provision will be of at least the same or better quality.
- 6.7 To achieve this on the Arbour Park site and still build a new free school and the Community Sports Facility, the 3G pitch itself will remain as school playing field. The class consent releases the remaining area from protection as school land but not the pitch area. If in future it was deemed necessary to release the 3G pitch from protection as school land then a full Section 77 application would be required.

7 Comments of Other Committees

This report has not been considered by any other committees.

8 Conclusion

- 8.1 Members are requested to approve disposal of the Castlevue and former Arbour Vale sites for new free schools. Members are also requested to agree that in the event that the level of funding approved by the EFA does not meet the actual cost of the planned works at the Orchard Centre and St Joseph's (internal remodelling and 4 court sports hall) that the difference is funded from Basic Need grant; and once contracts are exchanged, that those works can proceed.

9 Appendices Attached

Appendix A – Proposed disposal of land at Castlevue (Part II - contains exempt information)

Appendix B - Flowchart showing steps to completion of leases for Arbour Vale and Castlevue

10 Background Papers

- '1' Cabinet report 14th April 2014
- '2' Cabinet report 15th September 2014 (including Memorandum of Understanding)