

LONDON BOROUGH OF WALTHAM FOREST

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| Meeting/date | Cabinet 21 February 2012 | Agenda Item | 9 |
| Title | St Mary's CofE VA Primary School | | |
| Portfolio Leads | Children and Young People Corporate Resources, Business and Employment | | |
| Report author/ contact details | Christopher Loy Strategic Projects and Commercial Manager 020 8496 3554 chris.loy@walthamforest.gov.uk | | |
| Wards affected | Hoe Street and Wood Street | | |
| Public access | Open | | |
| Appendices | 1. Site Plan of Warwick South 2. Plan of School's Existing Site 3. Equality Analysis 4. Climate Change Impact Assessment | | |

1. SUMMARY

- 1.1 Cabinet is asked to (a) note that the governing body of St Mary's intends to publish statutory proposals to expand St. Mary's and (b) give delegated authority to officers to reach a legal agreement with the Diocese of Chelmsford related to the proposals.

2. RECOMMENDATIONS

- 2.1 For the reasons given in this report, Cabinet is recommended to:
- 2.1.1 Note that the governing body of St. Mary's CofE VA Primary School ("St Mary's") intends to publish statutory proposals to expand the school, which include a consequential proposal that the school move to a site known as Warwick South, being the land edged in red on the plan at Appendix 1.
- 2.1.2 Note that should the Council in due course approve the proposals, which it cannot unreasonably decline to do, that it will be required to transfer the freehold of Warwick South to the Diocese of Chelmsford ("the Diocese").
- 2.1.3 Delegate to the Executive Director of Environment and Regeneration in consultation with the Head of Legal and Democratic Services and the Portfolio Lead for Corporate Resources, Business and Employment authority to negotiate and execute an agreement with the Diocese providing for the making of such payments, or of such other adjustments of their rights and liabilities, as appear to be desirable having regard to the governing body's duties with respect to the school's proposed occupation of Warwick South.

3. BACKGROUND

- 3.1 The number of children of primary school age in Waltham Forest is rising rapidly and the Council has a legal obligation to ensure there are sufficient school places for them.
- 3.2 Cabinet agreed at its meetings in March and May 2011 that various sites owned by the Council, including Warwick South, should be used to provide additional school places.
- 3.3 The Executive Director of Children and Young People in March 2011 considered how expansion at Warwick South could best be achieved and, acting under delegated authority, agreed that consultation should take place on expansion of St Mary's from 1FE¹ to 3FE. Accordingly St Mary's governing body carried out consultation in May and June 2011 on the proposed expansion including the proposal that the school should relocate to Warwick South.
- 3.4 Following the consultation either the governing body or the Council may publish statutory proposals and it is then the Council that takes the decision to approve them. It is expected that Cabinet will be asked to take the decision at its meeting in May 2012. If the Council rejects the proposals, then the governing body may appeal to the Schools Adjudicator.
- 3.5 St Mary's is voluntary aided (VA). VA school sites must be owned by the relevant trustees, who in this case are the Diocese. If the statutory proposals for expansion of the school are approved therefore and the school consequently moves to Warwick South the Council must transfer ownership of the site to the Diocese.
- 3.6 Works are required at Warwick South to adapt the existing buildings for use by the expanded school. Funding was identified for the works in the schools capital programme that Cabinet approved at its meeting in January 2012.

4. PROPOSALS

- 4.1 It is proposed that officers in consultation with the portfolio lead for corporate resources should be given delegated authority to reach a legal agreement with the Diocese relating to the Diocese's contribution to the cost of the works required at Warwick South. As a result of this contribution the level of funding identified in the schools capital programme would be reduced accordingly. It is likely that such a contribution would be funded from the proceeds of disposal of the school's existing site.

5. SUSTAINABLE COMMUNITY STRATEGY PRIORITIES (AND OTHER NATIONAL OR LOCAL POLICIES OR STRATEGIES)

¹ FE means forms of entry, i.e. the number of classes of 30 pupils in each year. A 1FE primary school covering Reception to Year 6 (seven years in total) has capacity of 30 x 7 = 210 pupils. Primary schools in Waltham Forest are typically 2FE or 3FE.

- 5.1.1 By facilitating the creation of additional school places the proposed land transfer will help achieve the Sustainable Community Strategy priorities "manage population growth and change" and "provide children and young people with the skills and confidence to compete in a global economy".

6. CONSULTATION

- 6.1 The proposed land transfer is linked to the proposal to expand the school's capacity. Consultation on this took place between 3 May and 14 June 2011. Once statutory proposals for the expansion are published there will follow a four-week period for representations after which Cabinet will be asked to approve the expansion.

7. IMPLICATIONS

7.1 Finance, Value for Money and Risk

- 7.1.1 Adaptations to the buildings at Warwick South will be required to enable the school to occupy them. There is budgetary provision for the works in the schools capital programme that Cabinet approved in January 2012.
- 7.1.2 The proposal to transfer Warwick South to the Diocese can, provided that a suitable agreement is reached, be justified in terms of value for money in that St Mary's relocation to and expansion on that site is the best method for achieving an additional 2FE of primary school provision in the area, which helps the Council to fulfil its duty to ensure there are sufficient school places.

7.2 Legal

- 7.2.1 Cabinet is being asked to note that the school's governing body intends to publish statutory proposals for the expansion of St. Mary's, including the proposal that the school be relocated to Warwick South. Once published there follows a four-week statutory period for statutory consultees to make representations. Decisions on school organisation proposals are taken by the local authority or by the Schools Adjudicator (where either the authority fails to make the decision within the prescribed period or there is an appeal to the adjudicator).
- 7.2.2 Under paragraph 4 of Schedule 3 to the School Standards and Framework Act 1998 the local authority is directed to provide any new site which is required to be provided instead of, or in addition to, the school's existing site where this is necessary. The obligation to effect any transfer of the freehold of the Warwick South site would be triggered by the approval of statutory proposals for the expansion of the school. Where a site is provided the local authority and governing body may make an agreement providing for the making of such payments, or of such other adjustments of their rights and liabilities as appear to be desirable having regard to the governing body's duties with respect to the school's occupation of the proposed site.
- 7.2.3 When Cabinet in due course takes a decision on the expansion proposal it must have regard to the relevant statutory guidance. That guidance requires the decision maker to be satisfied that any land, premises or capital required to implement the proposals will be available.
- 7.2.4 The title deeds for the school's existing site state that the Diocese must obtain the Secretary of State for Education's consent to any transfer of ownership. Consideration needs to be given as to whether or not the existing

site has been 'publicly funded'. Where land has been publicly funded there are additional statutory requirements that the governing body notify the Secretary of State of any intended disposal. Following implementation of Section 63 of the Education Act 2011 on 1 February 2012 the Secretary of State now has power to direct that land enhanced by public money be transferred to an Academy, subject to payment of such monies as the Secretary of State determines. It is highly unlikely that the authority could or would be required by the Secretary of State to accept a transfer of the existing site in lieu of any publicly enhanced value.

7.3 Equalities and Diversity

7.3.1 The proposals in this report will help to meet demand for primary school places and thereby reduce inequality in terms of unequal access to school places.

7.3.2 An equality analysis is provided at Appendix 3.

7.4 Sustainability (including climate change, health, crime and disorder)

7.4.1 Subject to budgetary constraints officers will seek to ensure that the adaptation works are specified and carried out in a way that helps to mitigate climate change, improve health and reduce crime and disorder. The school's energy consumption per pupil is expected to decrease as a result of the move to Warwick South for the reasons explained in Appendix 4.

7.5 Council Infrastructure (e.g. Human Resources, Accommodation or IT issues)

7.5.1 The proposals in this report have no implications for the Council infrastructure.

BACKGROUND INFORMATION (as defined by Local Government (Access to Information) Act 1985)

Consultation document on expansion of St Mary's CofE VA Primary School published May 2011

Report to Cabinet 2 March 2011:

"Medium Term Financial Strategy Capital Programme 2011-15"

Report to Cabinet 11 May 2011:

"Primary Schools Accommodation Plan 2011-2016"

Report to Cabinet 12 January 2012:

"Capital Programme 2012/13-2015/16"

Minutes of the above Cabinet meetings

Approval by the Portfolio Holder

I have cleared this report for inclusion on the Cabinet agenda.



Signed:

Date: 7th February 2012

Cabinet Member for Corporate Resources, Business & Employment