

Report No.
CEF 21037

London Borough of Bromley

PART 1

Decision Maker: **Executive**

Date: **22 September 2021**

Decision Type: Non-Urgent Executive Key

Title: **SEN FREE SCHOOL INCLUDING ASSOCIATED PROPERTY TRANSACTION**

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Chief Officer: Director of Education

Ward: Chislehurst and Mottingham and Chislehurst North

1. Reason for report

The Executive is asked to provide agreement to the property transaction and operational costs for the special free school.

2. **RECOMMENDATION(S)**

2.1 **That the Executive notes the progress of the Special Free School project and the recent announcement by the Department for Education that Rivermead Inclusive Trust have been appointed to manage the new school.**

2.3 **That the Executive agrees:**

- **Notes the analysis by the DfE that the site provided is insufficient for a 152 pupil school based on the DfE's guidelines on special school sites (BB104) and its current approach to constrained sites.**
- **To authorise the Council to grant a lease of the land shown indicatively edged in red on the plan attached (Appendix 1) to Rivermead Inclusive Trust for a term of 125 years at a pepper corn rent.**
- **Authorise the Director of Education, in consultation with the Director of Corporate Services and Director of Finance, and the lead member for Education delegated authority to agree and settle the commercial terms and to enter into all relevant legal agreements any other agreements ancillary thereto with Rivermead Inclusive Trust and the Department of Education for the opening of the Special Free School and the granting of the relevant 125 year academy lease.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: The works will benefit over 100 children and their families.
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Children and Young People Excellent Council :
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Financial

1. Cost of proposal:
 2. Ongoing costs: None
 3. Budget head/performance centre: Education Capital Programme
 4. Total current budget for this head: £N/A
 5. Source of funding: DfE School Capital Allocation (SCA)
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Staff

1. Number of staff (current and additional): N / A
 2. If from existing staff resources, number of staff hours: N / A
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Applicable
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): 100 children and their parents.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Yes
2. Summary of Ward Councillors comments: Members from Chislehurst and Mottingham and Chislehurst North have indicated their support for the proposal to establish a new SEND free school in their ward.

3. COMMENTARY

3.1.1 The Council is working with the Department for Education (DfE) on new special school for Bromley, having bid successfully in 2018 as part of DfE's Wave 2 special school free school programme. The school is for key stage 2 and secondary aged children with autism and/or speech, language, and communications needs. In July 2021 the DfE announced that the Rivermead Inclusive Trust has successfully tendered to run the new school.

3.1.2 The DfE is now seeking agreement with the Council on the land to be provided to progress with the development of the capital scheme.

3.2 Background

3.2.1 In 2018 the Council bid successfully to the DfE for a 54 place Key Stage 2 (KS2) special school as part of the Department for Education's (DfE) Wave 2 SEN Free School round. The bid was for a school for children with autism with a particular focus on supporting primary to secondary transition. The SEN Free School would be based/built at the Hawes Down Centre in West Wickham. The bid included a Centre of Excellence for autism.

3.2.2 Following considerations of the tenders received from applicant Multi Academy Trusts (MATs) in 2019, the DfE, in partnership with the Council, decided it was unable to choose a successful trust to deliver the project.

3.2.3 This pause and need to retender the school gave the Council opportunity to re-consider its needs. Analysis indicated that needs had changes, and that the school needed to provide secondary provision as well as KS2, and would serve children with Autistic Spectrum Disorder (ASD) and Speech Language and Communication Needs (SLCN). The specification of the school increased to 152 pupils at this time to meet future project need for special school places.

3.2.4 During work on the original 54 pupil proposal, the DfE had identified challenges in delivering the new school on the Hawes Down Centre site. To accommodate the larger cohort required for the revised proposal the Council put forward a large site on Bushell Way, Chislehurst, that had been allocated for a new primary school within the Council's Local Plan adopted in 2019.

3.2.5 The new site is in at the edge area known as Walden Woods. The site is currently scrub/woodlands. During the inter-war years, the site bordered allotments and pre the first world war it was used as a brickworks.

3.2.6 Evaluation of the tenders for the re-run tender took place in late 2020/early 2021 and conversations started contemporaneously with the DfE about the site. At this point the DfE raised concerns about the school site based on their new size requirements that had been introduced for special free schools.

3.2.7 The DfE have commissioned an initial feasibility work to identify whether the school could fit on the site provided. Their analysis indicates that a smaller school (102 pupils) could fit on the site but that a larger school of 128 or 152 pupils would require more land.

3.2.8 In July 2021 the DfE announced the successful trust chosen to run the of the new school, Rivermead Inclusive Trust. This announcement was based on a 102 place school, but with agreement that a 152 place could proceed if additional land at the site could be provided.

3.3 Site Analysis

- 3.3.1 The site designated for education within the local plan is approximately 8,890m². This is approximately 5,000m² less than the DfE's minimum site size based on BB104, its area guidelines for SEND and alternative provision.
- 3.3.2 The DfE has carried out analysis that indicated whilst the school could accommodate, on a constrained site basis, a 102 pupil school, it has insufficient space for a 152 pupil school. In order to accommodate a 152 pupil school DfE has requested that the size of the site be increased to approximately 11,900m². Options for increasing the site area are provided at appendix 1.
- 3.3.3 If increasing the site area were to be agreed it would be on the basis that the additional site provided would be used for soft play or habitat land.
- 3.3.4 The Council's ownership extends beyond the area designated within the Local Plan for a school. Initial high-level work with on the title has been undertaken to enable the Council to proceed with extending the land provided to the new school should the Executive take a decision to increase the site size.

4 IMPACT ON VULNERABLE ADULTS AND CHILDREN

- 4.1 The project will benefit up to 152 pupils with special education needs and a diagnosis of ASD or SLCN and their families. The Multi- Agency Centre of Excellence will benefit children, young people with Autism and their families across the Borough.

5. POLICY IMPLICATIONS

- 5.1 Bromley Council has an established policy for the review and strategic planning of school places and related school organisation. The need to ensure sufficient school places, the quality of those places and their efficient organisation is a priority within the Council's strategy 'Building a Better Bromley' and contributes to the strategy to achieve the status of An Excellent Council. This policy also contributes to key targets within the Education Portfolio Plan.
- 5.2 The Council is an authority that aspires to managing its assets well.

6. FINANCIAL IMPLICATIONS

- 6.1 The Council will be responsible for providing funding to support the funding for the ASD Centre of Excellence and placement funding. This will be met through the Dedicated Schools Grant (DSG).
- 6.2 The cost of developing the site and new premises will be met by the DfE. Any legal and valuation costs associated with the property transaction will be funded by the Education Capital Programme.

6.7 In line with the criteria when submitting its bid in 2018, the Council would retain the freehold of the site which would be provided to the trust on a 125 year academy lease at a peppercorn rent.

7. LEGAL IMPLICATIONS

7.1 Local authorities have power under s.123 of the Local Government Act 1972 to dispose of land for best consideration that can reasonably be obtained (usually based on open market value).

7.2 s.128 of the Local Government Act 1972 confers power to the Secretary of State to give general consent for the purposes of land disposals by local authorities carried out under their powers in Part 7 of the 1972 Act.

7.3 The Local Government Act 1972: General Disposal Consent 2003 removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land where 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 well-being criteria in the Local Government Act 2000:

- 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 the “undervalue” (i.e. the difference between the unrestricted value of the interest to be disposed of and the consideration accepted) is £2,000,000 or less

7.4 Applications for specific consent, if appropriate, should be sent to the DCLG and include the following information:

- Written description of the land and buildings, the location
- Written description of how the land is currently held by the Council
- Details of any leases, encumbrances such as easements
- Summary of the proposed disposal/transaction
- Detailed valuation report signed by a qualified member of RICS. Ideally valuation should be done no earlier than 6 months before application for consent.

This only applies to land held as general fund land. It does not apply to land sold under s.233 TCPA 1990.

7.5 Disposal of Land considered as Open Space

Section 123 (2A) states that on any disposal of land considered as open space (any land, enclosed or not, on which there are no buildings, and the whole of the remainder of which is laid out as a garden or is used for recreation purposes or lies waste and unoccupied) requires the local authority to give notice of its intention to dispose of the land for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and they must consider any objections to the proposed disposal which may be made to them .

7.6 The Council, Department for Education and Rivermead Inclusive Trust will enter into a Memorandum of Understanding with regards property aspects of the project.

Non-Applicable Sections:	Procurement Implications Personnel Considerations
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Background Documents: (Access via Contact Officer)	
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APPENDIX 1