

**HERTFORDSHIRE COUNTY COUNCIL**

**CABINET  
MONDAY 22 JANUARY 2017 AT 2.00PM**

Agenda Item  
No.

**5**

**HARPENDEN SECONDARY SCHOOL – AUTHORITY TO ENTER INTO  
THE DEVELOPMENT AGREEMENT AND LEASE**

*Report of the Director of Resources*

Author: Mike Evans, Head of Estates Management

Executive Member: David Williams, Leader of the Council (as responsible for  
the Resources, Property and the Economy portfolio)

Local Members: Annie Brewster, Harpenden Rural  
Teresa Heritage, Harpenden South West

**1 Purpose**

1.1 To seek Cabinet approval to enter into a Development Agreement for the planned secondary school at Harpenden, a plan of the site is attached at Appendix A, and enter into a Lease of the new school once planning permission has been obtained.

**2 Summary**

2.1 Cabinet previously approved the acquisition of freehold land at Harpenden as a site for a new secondary school in September 2013, with the site being acquired on 25 August 2017.

2.2 The planning applications and the suite of legal documentation required to deliver the development on the County Council's land are in the final stages. Upon review of the previous Cabinet approvals it has been identified that there is no explicit authorisation to enter into the Development Agreement and Lease.

2.3 The Development Agreement will permit the construction of the school, once planning permission is secured. The lease allows the Harpenden Secondary Education Trust ("school trust") to occupy the buildings once the project is complete.

**3 Recommendations**

3.1 That Cabinet agrees that:

- i. the County Council enters into a Development Agreement of a new Secondary School in Harpenden with the Secretary of State for Education and the Secretary of State for Housing, Communities and Local Government;
- ii. the County Council enters into a lease of the new Secondary School in Harpenden with the Secretary of State for Housing, Communities and Local Government; and
- iii. the Director of Resources, in consultation with the Leader of the Council (as Executive Member for Resources, Property & the Economy portfolio), be authorised to finalise the Development Agreement and Lease and to arrange the appropriate execution of the documents by the Chief Legal Officer.

#### **4 Background**

- 4.1 Cabinet previously approved the acquisition of freehold land at Harpenden in September 2013, with the acquisition having been completed on 25 August 2017. An adjusted final land payment falls due when planning permission is secured based on the type of planning approval achieved. Negotiated terms were agreed with the vendor so as to avoid the compulsory purchase route. The consideration is £1.659 million, plus associated costs. In line with the Cabinet decision in September 2013 these terms were signed off by the Director of Resources and the Executive Member for Resources Property & the Economy in March 2017.
- 4.2 The Education, Skills and Funding Agency (ESFA) is providing the construction finance for the project, with some support from the County Council, see below, and Kier Construction have been appointed by the ESFA to deliver the new school, which will be occupied by the school trust.

#### **5 Terms of the Development Agreement and Lease**

- 5.1 The ESFA confirmed to the County Council that it would be prepared to fund the delivery of a free school on the basis that the County Council would lead the land acquisition process and purchase the site. This route was approved by Cabinet in September 2013.
- 5.2 The terms for the delivery of the school will be set out in the Development Agreement between the County Council, the Secretary of State for Education and the Secretary of State for Housing, Communities and Local Government.
- 5.3 The ESFA led the negotiation on behalf of the Government departments and the terms of the Agreement are as standard as possible to ensure consistency across the work the ESFA undertakes.

- 5.4 The Development Agreement permits the ESFA to construct a new school, based on a planning approval, to be obtained.
- 5.5 Within the Development Agreement there is an agreed form of Lease, which allows the school trust to take occupation when the development is complete. The lease is to be for a period of 125 years, at a peppercorn rent, and allows the tenant to operate the new secondary school. There are strict controls on the use of the land and assignability of the lease. The tenant has full responsibility for repair and maintenance as well as being responsible for all statutory issues concerning the site.

## **6 Financial, legal and risk management implications**

- 6.1 In line with Cabinet approval in September 2013, the County Council has acquired the land at Harpenden. The County Council's funding is now linked to the adjustment of the acquisition price plus contributions to highway and playing field works. All of these costs are covered within approved budget levels.
- 6.2 The base acquisition price is £1.659 million, but will be adjusted to take account of the scale of development being undertaken. This price adjustment is currently calculated. Funds have been set aside for the acquisition and development contributions.
- 6.3 In addition to the acquisition price, the County Council has agreed to make contributions of £1.5 million towards playing fields and to provide funding for off-site highway works once the ESFA's agreed contribution of £2.0 million has been spent. These will ensure the new school has the facilities that it requires to provide a high standard of education. If such an investment was not made by the County Council the ESFA would not have undertaken these works to the current level.
- 6.4 The land is currently designated as Green Belt and there is some opposition to the new school. Both the District and Parish Councils have recently confirmed their support to the planning application.

## **7 Equalities**

- 7.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered the equalities implications of the decision that they are taking.
- 7.2 Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this

requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.

- 7.3 The Equality Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.
- 7.4 There are no equality issues specific to these proposals.

## **8 Timeline**

- 8.1 The Development Agreement and Lease for school are in their final stages of completion. When planning permission has been secured, and subject to this approval, work on the new secondary school can start on site.