



Report for: ACTION
Item Number: 23

Contains Confidential or Exempt Information	NO
Title	Update on the School Expansion Programme and Site Acquisitions
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Portfolio(s)	Cllr Binda Rai, Children and Young People
For Consideration By	Cabinet
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Purpose of Report:
 The purpose of this report is to update Cabinet with the progress of school expansions, current projections (including for pupils with Special Educational Needs), site acquisitions and possible next steps to support the Education Funding Agency in acquiring sites for planned Free Schools. Cabinet is also asked to note the shortfall in places at secondary level should some of the planned Free Schools not open in 2016 as currently anticipated and to approve the further development of contingency plans to provide temporary spaces in the areas of demand. This report seeks Cabinet approval to invite and evaluate tenders and submit any necessary planning applications for the temporary high school contingency plans, should they be deemed necessary, and to invite and evaluate tenders for Dormers Wells Infant and Junior School. This report seeks Cabinet approval to include grant allocations received from the Department for Education in the existing capital programme.

1. Recommendations

It is recommended that Cabinet:

- i. Note sections 3.1 and 3.2 which sets out the updated protections in relation to demand for primary and secondary school provision across the borough and the inherent uncertainties that are attached to such projections;
- ii. Note the progress made with regards to securing additional provision for pupils with Special Educational Needs;

- iii. a). Agree in principle that, if the sites identified for schools as described in the report cannot be acquired by the Education Funding Agency by agreement, that the sites be acquired by means of a compulsory purchase order pursuant to section 530 (1) of the Education Act 1996 if necessary;

b). Authorise the Executive Director of Regeneration and Housing following consultation with the Leader of the Council and the Executive Director of Corporate Resources, to take any necessary steps to compulsorily purchase the sites identified for schools if these sites cannot otherwise be acquired by agreement;
- iv. Authorise the Assistant Director for Schools Planning and Resources to negotiate and enter into agreements with the governing body of schools and other institutions where appropriate, regarding the provision of temporary accommodation for the 2016/17 and 2017/18 academic years;
- v. Authorise the Executive Director for Children and Adults to incur fees to further develop proposals for temporary school expansions, to submit any necessary planning applications and undertake any other statutory notices or requirements that may be required;
- vi. Authorise the Executive Director for Children and Adults to incur fees to further develop the proposals for the expansion of Greenford High School, to submit any necessary planning applications and undertake any other statutory notices or requirements that may be required;
- vii. Authorise the Executive Director for Children and Adults to seek all necessary planning permission and any statutory consents and approvals for the projects described in paragraphs 3.4 and 3.6 within this report;
- viii. Authorise the Executive Director for Children and Adults to invite and evaluate tenders for the temporary high school expansion projects for 2016/17 and 2017/18 academic years outlined in paragraph 3.4 of this report, should they be deemed necessary to progress;
- ix. Authorise the allocation of £0.500m for the expansion of Dormers Wells Infant School and £1.800m for Dormers Wells Junior School to be funded from the existing schools capital programme;
- x. Authorise the Executive Director for Children and Adults to invite and evaluate tenders for the required expansion projects at Dormers Wells Infant and Junior School outlined in section 3.6 of this report and delegate authority to the Executive Director for Children and Adults to award contracts for the works, if suitable tenders are received;
- xi. Note the £0.764m Devolved Formula Capital allocation for 2015/16 received from the DfE for maintained schools in Ealing, and approves its addition to the existing approved Schools Service Capital Programme;
- xii. Approve the addition of £0.475m to the Secondary Schools Expansion budget (item 30) of the Budget Book; and,

- xiii. Approve the addition of £0.671m to the High Priority Condition budget, (item 40 of the Budget Book).

2. Reason for Decisions and Options Considered

The decisions are required to enable the Council to meet its statutory duty to secure sufficient school places through the expansion of existing primary and high schools and through Free Schools. The Council has a statutory responsibility to promote high educational standards, ensure fair access to educational opportunity and promote the fulfillment of every child's educational potential. The Council must also promote choice and diversity.

Cabinet approval is required to invite and evaluate tenders, and submit any required planning applications.

The Legal Framework within which Cabinet must consider the proposals is set out in **section 5**.

The relevant background report on projected future demand which was last presented to Cabinet on the 29th of April 2014 and can be accessed via the link below:

Update on School expansion programme and projected future demands April 2014
<http://ealing.cmis.uk.com/ealing/Committees.aspx>

3. Key Implications

3.1. Primary School Places, 4- 11 year olds

Current programme

The significant increase in births between 2002/3 and 2010/11 has meant continued pressure on Ealing primary schools. Expansion of primary school places in Ealing began in 2008, with more than half of all schools now having either expanded or taken at least one bulge class to date. The current primary expansion programme will have provided 34.5 forms of entry (FE) in permanent expansions by 2017 (with 32FE of these available as permanent school places in September 2015). Most of these have been provided by expanding existing schools, but 7FE have been provided in four new schools, Holy Family, Ark Priory and Ark Byron (which opens in September 2015) in Acton and St Mary's in Southall. Floreat was also granted approval to open by the Department for Education in 2016 in the Southall area, adding a further 2FE to the additional forms of entry provided by the primary school expansion programme.

In total (including 2.5FE in bulge classes) we will provide 4,800 reception places in September 2015, compared to the 2008 baseline of 3,769 places. This is to meet the demand generated by 5,843 live births for the cohort of children who reached reception age in September 2015. The rising birth rate has been the key factor influencing the increase in demand for places in Ealing, with a 31% rise in births over the eight year period between 2002/03 and 2010/11. The September 2015 intake (born in 2010/11) appears to represent the peak in births and births in the borough dropped back to 5,466 in 2013/14 (the September 2018 intake).

Table 1 Births over time with corresponding year of entry to reception

Year	Entry into reception	Entry into year 7	Number of births
Births 01-02	Sep 06	Sep 13	4,386
Births 02-03	Sep 07	Sep 14	4,469
Births 03-04	Sep 08	Sep 15	4,599
Births 04-05	Sep 09	Sep 16	4,841
Births 05-06	Sep 10	Sep 17	4,976
Births 06-07	Sep 11	Sep 18	5,231
Births 07-08	Sep 12	Sep 19	5,573
Births 08-09	Sep 13	Sep 20	5,578
Births 09-10	Sep 14	Sep 21	5,829
Births 10-11	Sep 15	Sep 22	5,843
Births 11-12	Sep 16	Sep 23	5,750
Births 12-13	Sep 17	Sep 24	5,606
Births 13-14	Sep 18	Sep 25	5,466 (<i>provisional</i>)

Future Programme

When we last reported to Cabinet in April 2014, the GLA were projecting that births in the borough would stay high and be in the region of 5,900 for the next ten years. They have recently revised their projections to take account of the recent drop in births and the latest projected age structure of the population, and they are now projecting that births in Ealing will level off following the recent fall and remain in the region of 5,400 for the next ten years. This has significantly brought down our longer term projections (2018 and beyond).

Our latest projections (which are now based on a birth to reception ratio of 81.1% rising to 82.0% from 2016 onwards) project that we will need to provide sufficient places for between 4,715 and 4,737 children entering reception classes across the borough for the next two years, dropping to just under 4,600 in 2017 and then to between 4,400 and 4,500 from 2018 onwards.

Once the current schemes are fully implemented we will have 4,800 permanent reception places available across the borough and therefore now expect to have enough places to meet demand and provide a reasonable buffer to cope with in year admissions and fluctuations in retention in the Acton, Ealing and Greenford, Northolt, Perivale (GNP) areas of the borough for at least the next five years.

This is not yet the case in Southall, where birth increases came later, with a 25% increase in births between 2008/09 and 2011/12. In Southall South, a 0.5FE permanent expansion at Clifton and the opening of the new St Mary's Free School in 2014 which opened in its temporary location, have taken the current planned admission number to 510. We expect to need to provide further places in Southall South to meet the demand generated by higher birth years entering reception from September 2016. It is anticipated that this additional demand will be largely met through Floreat Southall, a new 2FE primary Free School, which has approval to open in September 2016, though has not yet secured a site. We project that we will need to provide up to a further 2FE in Southall North and 1FE in Southall South in September 2016 in temporarily solutions to meet the demand generated by the peak in births.

Table 2 overleaf shows the permanent forms of entry created through expansion projects already agreed by Cabinet for primary schools and the Free Schools that have been approved to open by the Department for Education. The asterisk represents the schools that took a temporary 'bulge' class in order to respond to immediate demand ahead of permanent expansion.

Table 2: Planned Permanent Expansions and Free Schools- Primary		
Mainstream		
School	Additional FE	Places available from
Ealing and Hanwell		
North Ealing Primary	1.0	September 2009*
Fielding Primary	1.0	September 2009*
Little Ealing Primary	1.0	September 2009*
St John's Primary (phase 1)	0.5	September 2009
St John's Primary (phase 2)	1.0	September 2017
Brentside Primary	0.5	September 2010*
Hobayne Primary	1.0	September 2010*
St. Mark's Primary	0.5	September 2010*
St Gregory's Primary	1.0	September 2012*
Christ the Saviour Primary	1.0	September 2012
Grange Primary	1.0	September 2012*
Drayton Green Primary	1.0	September 2013*
St Joseph's Primary	1.0	September 2015*
Mayfield Primary	0.5	September 2016*
GNP (Greenford, Northolt, Perivale)		
Stanhope Primary	1.0	September 2009
Selborne Primary	1.0	September 2009
Oldfield Primary	0.5	September 2009*
Wood End Infants and Academy	1.0	September 2009 (Infants)* September 2012 (Academy)
Alec Reed Academy	1.0	September 2012*
Ravenor Primary	1.0	September 2012*
Gifford Primary	1.0	September 2012*
Horsenden Primary	1.0	September 2013*
Greenwood Primary	1.0	September 2014*
Vicar's Green Primary	1 (joint funded with Brent)	September 2014*
St Raphael's Primary	1.0	September 2014
Acton		
Berrymede Infant and Juniors	1.0	September 2012 and 2014*
The Holy Family (VA) (new school)	2.0	September 2012
Ark Priory Academy (new school)	2.0	September 2013
Ark Byron (new school)	2.0	September 2015
West Acton Primary	1.0	September 2013*
West Twyford Primary	1.0	September 2014
Southall		
Clifton Primary	0.5	September 2014
St. Mary's CofE (new school)	1.0	September 2014
Beaconsfield Primary	1.0	September 2016*
Dormers Wells Infant and Junior	0.5	September 2012 (Infants) September 2016* (Junior)
Floreat (new school)	2.0	Proposed date to open September 2016
Total	36.5 FE	

3.2. Secondary School Places, 11- 16 year olds

Current Programme

The significant increase in births has not yet impacted the secondary sector (with the first year group since birth rates began to rise transferring to secondary school in September 2015 and the cohort size rising sharply from September 2016). There are currently surplus places in the secondary sector, concentrated in the west of the borough at two schools in the Greenford, Northolt and Perivale (GNP) planning area and one school in Southall. This contrasts with a shortage of places in the east of the borough in the Ealing and Acton areas.

To date, we have delivered a 2FE expansion in Southall in 2012 and added a new 6FE high school in Greenford in 2013. In total (including two bulge classes, which were offered after the opening of Ealing Fields Free School was deferred) we will provide 3,220 year 7 places (3,160 of which are permanent) in September 2015. A further 4FE in permanent capacity will be added in two high schools in Ealing in 2016.

Future Programme

Once the significantly higher numbers of children currently progressing through our primary schools transfer into high school, we expect to have an overall shortfall in capacity in year 7 from September 2016, and are projecting the need for 23 additional forms of entry at secondary level (19 forms of entry on top of current planned expansions) by September 2019. This is to meet the demand generated by a projected 3,834 children transferring to our secondary schools (compared to 2,878 in 2014/15).

These projections assume that the primary (year 6) to secondary (year 7) retention ratio will have recovered back to 85% by 2019. This ratio has fallen from nearly 85% to just under 80% over the past five years. There are two main reasons for this. Demand has significantly outstripped capacity in the Ealing area of the borough, where the current secondary schools are operating at full capacity. The ratio has further been brought down by a significant proportion of parents in Southall (19%) and GNP (23%) choosing good or outstanding out of borough provision over local high schools who have vacancies but have been classed by Ofsted as requiring improvement. These high schools have all now received a “good” Ofsted rating meaning all 14 high schools in the borough are now good or outstanding. As the popularity of these schools recovers, we expect to see an incremental increase in the retention rate over the next five years. Three new secondary Free Schools have approval to open in the borough in 2016 (Ealing Fields and North Twyford) or 2017 (Ark) and we expect these to be popular and to draw a proportion of the children who currently do not receive a local offer they are happy with back from out borough schools and the independent sector. We are also expanding capacity in some of our more popular high schools. We therefore feel that it is pertinent to plan for 82% retention in 2015 rising to 83.5% in 2016 when the new provision begins to come on stream, and then incrementally by 0.5% points a year to 85% by 2019.

Acton

The capacity of Acton planning area will temporarily increase from 646 to 676 for September 2015, with a 1FE bulge at Acton High. There is a projected need for a further 3.5FE from September 2016 rising to 5.5FE from September 2018 and 8-9FE from September 2019. A 6FE Ark Free School has approval to open in 2017 and if it progresses in the Acton area of the borough as planned would go a long way to meeting this demand.

Ealing

The capacity of Ealing planning area will temporarily increase from 644 to 674 for September 2015, with a 1FE bulge at Elthorne Park. 4FE (116 places) will be added at Elthorne Park and Brentside from September 2016 taking the permanent planned capacity to 760. There is then a projected need for a further 3FE from September 2016 rising to 5FE from September 2018 and 8FE from September 2019. Two further Free Schools have approval to open in the borough in September 2016 (Ealing Fields (4FE) and North Twyford (6.5FE)) which between them would provide 10.5FE in the Ealing area of the borough if both progress as planned.

Greenford, Northolt, Perivale (GNP)

To date 6FE has been added to GNP planning area through the opening of William Perkins Academy in September 2013, which has taken the Planned Admission Number (PAN) to 1150. William Perkins will also open an additionally resourced provision (ARP) for children with special needs from September 2015, which will contain 30 pupils once it has completely filled. We expect to have enough capacity to meet demand for secondary places in GNP for the next four years, although we will need to develop plans to meet the projected need for a further 2FE from September 2019.

Southall

When Dormers Wells High School was rebuilt through BSF in 2012 an additional 2FE was added taking its capacity to 240 and the overall PAN of the Southall planning area to 720. We will need to develop plans to meet the projected need for a further 1FE from September 2017 and 2FE from September 2019. There is also likely to be a need for further high school provision in Southall from September 2022 to meet the demand caused by recent birth increases in Southall.

Table 3 shows the additional permanent forms of entry that have been created either through the expansion of existing high schools in the borough that have been agreed by Cabinet, or through Free Schools approved to open by the DfE.

Table 3: Planned Permanent Expansions and proposed Free Schools		
Mainstream High Schools		
School	Additional FE	Places available from
Dormers Wells High School	2.0	September 2012
William Perkins (Free School)	6.0 0.5 (10 places)	September 2013 September 2014
Twyford CofE High School	0.5 (10 places)	September 2014
Elthorne Park expansion	2.0	September 2016*
Brentside High expansion	0.5 (14 places) 2.0 (56 places)	September 2012 September 2016
Ealing Fields (Free School)	4.0	September 2016**
North Twyford (Free School)	6.5	September 2016
Ark (Free School)	6.0	September 2017
*Elthorne Park will have an additional 1FE on top of the current PAN available from September 2015 as a temporary 'bulge' class ahead of the 2FE permanent expansion in 2016.		
**With regards to Free Schools, the dates indicating when the places will be available from is based on the date submitted within the bid that was approved by the DfE with the exception of Ealing Fields, which was approved to open in 2015 and has been deferred until 2016.		

Table 4 shows year-by-year the planned high school capacity already agreed and the shortfall by area within the borough

High school planning areas	Acton	Ealing	GNP	Southall	LB Ealing shortfall	LB Ealing shortfall (if you zero off the excess)
Agreed high school capacity (PAN) - in Forms of entry *	21.5	25.3	38.3	24.0	109.2	
Sep-16	-3.4	-2.6	3.3	0.2	-2.6	-5.9
Sep-17	-2.9	-3.0	1.6	-0.4	-4.6	-6.2
Sep-18	-5.4	-4.9	0.2	-1.0	-11.1	-11.3
Sep-19	-7.9	-7.6	-1.6	-1.5	-18.6	-18.6
Sep-20	-8.6	-6.5	-1.6	-0.8	-17.6	-17.6
Sep-21	-9.0	-8.2	-2.0	-1.6	-20.8	-20.8

* Includes additional 4FE at Brentside and Elthorne

3.3. Site Acquisitions Free Schools and Compulsory Purchase Orders

An updated version of the Planning for Schools Development Planning Document (DPD) was published in February 2015 which included a shortlist of eight sites which have been identified to meet the future demand for school places. Following a period of consultation the DPD has been submitted to the Planning Inspectorate for formal examination which is provisionally scheduled to take place in November 2015. The designation of the shortlisted sites for education use gains weight as the DPD progresses through the required stages towards adoption.

Several of the eight sites identified in the DPD are presently in private ownership and the Council has been working with the Education Funding Agency, acting on behalf of the Department for Education, to acquire these sites from the current owners. Current central government policy for the establishment of new schools prescribes that these should be Academies and funded as part of the Free School programme.

Dialogue with each of the current site owners is underway and overall has been considered productive. However in the event of failure to reach agreement on the acquisition of any of the sites identified in the DPD based upon reasonable terms and current market value being offered, the Council would need to explore compulsory purchase on the grounds of the acute need for additional school places and limited alternative options. Accordingly, Cabinet approval is sought for authority to progress with compulsory purchase of sites identified for schools in the DPD where, despite all reasonable efforts, negotiations become deadlocked.

3.4. High School Bulge Classes 2016 and 2017

The Council projects a requirement for an additional 23 forms of entry in high schools by 2019 (on top of the current 105FE) with the first 7 to 10 forms of entry needed for September 2016 (depending on whether you zero off the 3FE projected excess in GNP). To date the strategy for meeting this need has been through the expansion of two existing high schools, Brentside and Elthorne Park, by 2FE each with a further 4-

6FE due to be provided either by the Ealing Fields Free School or the North Twyford Free School.

Ealing Fields does not presently have a permanent site or a Funding Agreement in place with the Secretary of State. Whilst extensive negotiations have been carried out with the present owners of the site identified for Ealing Fields there is a risk that the school will not be able to open as planned in September 2016. Similarly the North Twyford Free School, also approved to open in September 2016, currently does not have a permanent site secured and at present there are risks associated with it opening to the September 2016 timescale originally planned.

In light of the Council's statutory duty to facilitate sufficient school places in the borough, coupled with the present uncertainty around the approved Free Schools being able to open as currently planned, Cabinet approval is requested for officers to progress with contingency plans to establish bulge accommodation in existing high schools in the Ealing and Acton area. These proposals would be implemented in the event that neither Ealing Fields nor the North Twyford Free School are in a position to open in September 2016.

Given the time required to secure planning permission and procure additional accommodation, it is necessary for the contingency options to be progressed at this time. The bulge accommodation would be sized to accommodate 4 to 6FE of high school places in 2016 and a further 4 to 6FE in 2017 at one or more of the existing high schools in Ealing/Acton.

Cabinet approval is required to delegate authority to the Executive Director for Children and Adults to incur fees to further develop these options and should the contingency plans be deemed necessary in order to provide sufficient high school places, authority to invite and evaluate tenders and submit any necessary planning applications.

3.5. Places for pupils with special Educational Needs (primary, secondary and post 16)

Once current plans are fully implemented, we will have expanded provision at special schools by 131 places (with 91 of these in primary age schools and 40 in an all through school and added additionally resourced provision across a number of mainstream schools at both primary (West Acton) and secondary (William Perkins and Elthorne Park). Once these planned expansions to SEN provision are fully implemented, we do not now project there will be any further shortfall in primary SEN provision in the next ten years.

From 2018, we do however anticipate that there will also be additional demand for secondary age places as these children move through into the secondary sector and we increasingly look to develop more local provision for secondary age students to decrease our dependency on out borough, non-maintained and independent specialist provision. We are currently exploring solutions to meet this demand.

As part of the capital budgeting process currently underway, a proposal has been made to establish further Additionally Resourced Provision (ARP) in existing high schools which would provide an additional 40 places for pupils with SEN. Further plans will be considered as part of the budget process for 16/17 and beyond.

3.6. Dormers Wells Infant and Junior School

Dormers Wells Infant School

Dormers Wells Infant School, a Foundation School, made a local governing body decision to increase their published admission number (PAN) from 105 to 120 (4FE) in 2011. At the time the school managed the increase of 45 school places (15 per year group) in its existing accommodation. Now the increased PAN has been fully implemented across all infant year groups, building work is required to provide much needed additional teaching and learning space.

Cabinet approval is required to authorise the allocation of £0.500m to progress to the next stage of the project, to invite and evaluate tenders and should suitable tenders be received, delegate authority to enter into contract in accordance with Contract Procedure Rules, in order to create sufficient teaching and learning areas to accommodate the increase in pupils.

Dormers Wells Junior School

Approval for Dormers Wells Junior School is now necessary as the increased cohorts move from the Infant School to the Junior School. The school took an additional 17 pupils into Year 3 in 2014 and 2015 which was taken as a temporary bulge class within the school's existing accommodation with minor adaptations. From 2016 the PAN will increase permanently from 103 to 120 (68 places overall based upon 17 places per year). As a result the school now needs additional teaching and learning space in a permanent building requiring building works to accommodate the extra pupils.

The decisions are required to enable the Council to progress to the next stage of this project by approving the allocation of £1.800m to create essential teaching and learning spaces, to invite and evaluate tenders and should suitable tenders be received, delegate authority to enter into contract in accordance with Contract Procedure Rules, and to submit a planning application.

3.7. Additions to existing capital programme

Devolved Formula Capital

This is capital grant devolved to schools for schools to invest in their buildings addressing their own priorities in accordance with the AMP. Department for Education (DfE) has allocated £0.764m for maintained schools in Ealing for the 2015-16 academic year.

Secondary Schools Expansion

In the 2015/16 budget process, it was assumed, based on previous allocations, that the Department for Education (DfE) would allocate £22.181m Basic Need grant towards the provision of additional school places in Ealing for the 2017/18 financial year. In February 2015, the DfE confirmed the actual allocation to Ealing as £22.656m. Approval is therefore sought to add the difference of £0.475m to the capital programme to address budget pressures on the secondary schools expansion programme.

High Priority Condition

In the 2012/13 budget process, it was assumed, based on previous allocations, that DfE would allocate a total of £14.800m to address the condition needs of Ealing Schools for the 4 year period from 2012/13 to 2015/16 inclusive. In February 2015, the DfE confirmed the actual allocation for 2015/16 as £4.281m resulting in the actual total grants received over the period 2012/13 to 2015/16 as increased to £15.471m.

Approval is therefore sought to add the difference of £0.671m to the capital programme to address budget pressures on schools' condition needs. High Priority Condition Funding is ring fenced to address Condition needs in Schools.

4. Financial Implications

Financial impact on the budget

Expansion of school places requires significant capital spend and the estimated expenditure for the agreed programme is subject to review and may change. The schemes described in this report will all be funded from the existing approved budgets in the capital programme. Table 5 below sets out the approved total budgets from which the schemes are to be funded.

The detailed expenditure for the schemes will be monitored by the Budget Holder and Service Management as part of the overall monitoring process.

4.1. Dormers Wells Infant

The estimated outturn cost to provide the permanent expansion at Dormers Wells Infant School is £0.500m. This will be funded from the existing approved Primary Schools Expansions 2014/15-16/17 budget (current Budget Book, items 11 and 12), in 2016/17 as shown in **table 5**.

4.2. Dormers Wells Junior

The estimated outturn cost to provide the permanent expansion at Dormers Wells Junior School, including the bulge works is £1.800m. This will be funded from the existing approved Primary Schools Expansions 2014/15-16/17 budget (current Budget Book, items 11 and 12), £0.050m in 2015/16, and £1.750m in 2016/17, as shown in **table 5**.

4.3 Temporary High School Bulge Classes 2016 and 2017

The estimated outturn cost to provide the temporary high school bulge classes is £5.000m. This will be funded from the existing approved Secondary Schools Expansion budget (current Budget Book, item 30) as shown in **table 5** below. The balance of Budget Book item 30 (£9.181m) has previously been committed towards the expansion of Brentside High School.

Table 5: Budget book items 11 and 12 of the Primary School Expansion Programme, and item 30 of the Secondary Schools Expansion

Item	Scheme	Funding Source	2015/16 (£m)	2016/17 (£m)	2017/18 (£m)	2018/19 (£m)	Total (£m)
11	Primary Schools Expansions 2014/15-16/17	M		7.534	2.000		9.534
12	Primary Schools Expansions 2014/15-16/17	G	0.475	0.289			0.764

	Primary Schools Expansions 2014/15-16/17	S	1.470				1.470
30	Secondary Schools Expansion	G		2.181	12.000		14.181
	Total		1.945	10.004	14.000		25.949

5. Legal

The contracts for the building works described in this report will be let in accordance with the Council's Contract Procedure Rules and the Public Contract Regulations 2015 as applicable.

Duties in relation to children of school age

Councils have a statutory duty to ensure that there are sufficient school places in their area. They must also promote high educational standards, increased parental choice, ensure fair access to educational opportunity and promote the fulfilment of every child's educational potential.

In relation to the expansion of schools, the planning of SEN provision and the corresponding increase in published admissions numbers the council is currently required to comply with the following statutory framework so far as maintained schools are concerned.

The Education and Inspections Act 2006, the School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 establish detailed procedures for the establishment of new schools and the making of prescribed alterations to existing schools including enlargement and the establishment or discontinuance of provision that is recognised as reserved for children with special educational needs.

The procedures include the publication of statutory notices and proposals containing prescribed information and defined consultation periods.

In January 2014 new statutory guidance was published entitled 'School Organisation: Maintained Schools Guidance for proposers and decision makers'. The Department for Education has also published Departmental Guidance for Academy Trusts entitled 'Making Significant Changes to an Academy'.

The relevant statutory guidance is in the School Organisation, Maintained Schools: Guidance for Proposers and Decision Makers January 2014.

<https://www.gov.uk/government/publications/school-organisation-maintained-schools>
Annex B contains Guidance for Decision Makers.

The statutory guidance contains a 'non exhaustive' list of factors that the decision maker must consider in relation to each proposal.

Statutory proposals are required for cumulative expansions in prescribed circumstances, including the making permanent of any temporary enlargement where the enlargement is in place for three years or more.

The regulations provide for conditional approval of proposals to be made in certain circumstances. These include the grant of planning permission.

The decision maker must set a date by which the condition must be met. The condition to be met date must be before the proposed implementation date of the proposal.

The statutory framework for the annual determination of admission arrangements for maintained schools is currently set out in S 88E Schools Standards and Framework Act 1998, the School Admission (Admission Arrangements) England Regulations 2008 and the statutory Schools Admissions Code.

Admissions authorities of maintained schools must set and publish admission numbers for 'each relevant age group' within a school

Admission authorities must consult before setting or amending the Published Admission Number (PAN). Consultation must take place by 1 March of the determination year unless (in the case of admission arrangements for entry 2010-2012 and subsequent years) their admission arrangements were consulted on in one or both of the two previous years and they are the same as the arrangements since the last consultation.

Once an admission number has been set by the admission authority, schools should not admit children above the PAN unless the school and the local authority agree that admitting above that number will not adversely affect the school in the longer term and will not have a detrimental effect on neighbouring schools.

Admitting above the admission number does not amount to an increase in the PAN which can only be changed via the annual determination of admissions arrangements, or once determined for a maintained school via a referral to the Schools Adjudicator.

The determination by the Schools Adjudicator to vary admission numbers should follow approval by the local authority of any related proposals for enlargement of the school. Where admission arrangements fall to be implemented in accordance with approved statutory proposals the statutory annual determination requirements are modified.

Under the Education (School Premises) Regulations 2012 suitable outdoor space must be provided in order to enable:

- a) Physical Education to be provided to pupils in accordance with the school curriculum; and
- b) Pupils to play outside

Dormers Wells Infant and Junior School

According to the guidance set out by the Department for Education in January 2014, link above, the Local Authority does not need to publish statutory proposals for a proposed permanent enlargement to the premises of the school if the increase to the capacity is more than 30 pupils and 25% or 200 pupils.

The proposal for Dormers Wells Infant and Junior is to expand the school by more than 30 pupils but less than 25% of both schools' overall capacity.

- a. Dormers Wells Infant School
Previous PAN 105 overall capacity of 315

Proposed PAN 120 overall capacity of 360

The proposal was to increase the capacity by 15 places per year group and 45 overall, which is an increase of 14% of the previous overall capacity of 315.

b. Dormers Wells Junior School
Current PAN 103 with overall capacity of 412
Proposed PAN 120 with overall capacity of 480

The proposal is to increase the capacity by 17 places per year group and 68 places overall. This is an increase of 17% of the current overall capacity of 412.

In regard to public law and equalities considerations

When making decisions the Council must act reasonably and rationally. It must take into account all relevant information and disregard all irrelevant information and consult those affected, taking into account their views before final decisions are made. It must also comply with its legal duties, including relating to equalities.

Special Educational Needs Provision

Local Authorities have overall responsibility for making sure that children's Special Educational Needs (SEN) are met.

A revised statutory framework under the Children and Families Act was brought into force in September 2014.

Under S27 Local Authorities must keep under review the educational, training and social care provision made for children who have SEN or a disability and consider the extent to which the provision is sufficient to meet the needs of the children and young people concerned.

In exercising its functions under S27 Authorities must consult children, young people and parents, the governing bodies of maintained schools, nursery schools, Academies, post 16 institutions, non-maintained special schools, advisory boards of Children Centres, providers of early years education and the governing bodies and proprietors institutions outside the area the authority thinks are or are likely to be attended by children and young people in the area, youth offending team and such other persons as the authority thinks is appropriate.

Local Authorities must also have regard to the Joint Strategic Needs Analysis and Health and Wellbeing Strategy in the exercise of this function.

Planning for School Sites DPD

When preparing the School Sites DPD the Council must comply with the consultation requirements found both in the Town and Country Planning (Local Planning) (England) Regulations 2012 ("the 2012 Regulations") and the National Planning Policy Framework (March 27th 2012), which sets out government policy on local plan making.

This includes the duty to consult with specific and general consultation bodies, the requirement to place an advertisement in the newspaper, the general duty to comply with the Council's Statement of Community Involvement and a duty to cooperate with neighbouring local planning authorities about any of the plan's potential implications.

In particular, Regulation 17 of the Town and Country Planning (Local Planning)

(England) Regulations 2012 states that the local authority must carry out a six week consultation on a Development Plan Document before it is submitted to the Secretary of State. Any representations must be fully considered by the decision maker, including those which do not accord with the proposals.

Compulsory Purchase Orders

The Council's power to acquire land for schools is contained in section 530 of the Education Act 1996. Section 530 confirms that an authority may do so where land is required for the purpose of 'any school' which is or is to be maintained by them or which they have the power to 'assist' or is otherwise required 'for the purposes of their functions under the Education Act 1996] or is required for the purposes of an Academy (whether established or to be established)'.

Government Guidance (Circular ODPM 06/04) confirms that before making an order under section 530 of the 1996 Act the local education authority should have regard to the suitability of the site and also whether the site area is essential to locate the school buildings and playing field.in relation to compulsory acquisition for educational purposes.

The procedure for compulsory purchase in England and Wales enables a landowner who objects to a compulsory purchase to be heard at a public inquiry before the order is confirmed. There is a right to challenge a decision to confirm an order on two statutory grounds - that the authorisation of the order is not empowered to be granted under the Acquisition of Land Act 1981 or that a "relevant requirement" has not been complied with - and it is considered that these procedures comply with Article 6 Of the ECHR which provides a right to a fair trial in relation to civil rights and obligations.

The Courts have considered the concept of "proportionality" in relation to compulsory purchase and the weight of authority supports the proposition that the test of proportionality is satisfied provided that the order strikes a fair balance between the public benefit sought and the interference with the rights in question. Before a final decision to proceed to make a CPO in respect of any site the Executive Director of Regeneration and Housing will need to be satisfied that there is clear evidence that the public benefit of the proposed redevelopment of the site for education purposes will outweigh of the private loss of the sites concerned.

This report provides the information to indicate that if the sites identified for new schools cannot be acquired by agreement there is in principle a compelling case for a CPO in the public interest. In addition it demonstrates that the necessary resources are available and the basis on which it is considered that that there are unlikely to be planning impediments to the proposed redevelopment and that the assumption of compulsory powers at the appropriate time will be justified.

Human Rights

The United Kingdom is a signatory to the European Convention on Human Rights (ECHR) which came into force as an international treaty in 1953. The Convention comprises a statement of rights, which signatory states guarantee, and incorporates machinery and procedures for their enforcement through the European Commission of Human Rights and the European Court of Human Rights in Strasbourg.

The provisions of the ECHR which are of most relevance to compulsory purchase in this context are as follows.

Article 6 - "In the determination of his civil rights and obligationseveryone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...."

Article 8 - "Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country. For the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

Article 1 of the First Protocol - "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and the general principles of international law. The preceding provisions shall not, however, in any way impair the right of the state to enforce such laws as it deems necessary to control the use of property in accordance with the general interest."

The Human Rights Act 1998 came fully into force on 2 October 2000, incorporating the provisions of the ECHR into domestic law.

Although the ECHR guarantees the right to peaceful enjoyment of property, it is clear from Article 1 of the First Protocol that compulsory acquisition of land does not involve an infringement of the ECHR so long as it is done in the public interest and subject to the law laid down by statute. Similar considerations apply to Article 8. States are given a "margin of appreciation" in deciding for themselves what constitutes sufficient public interest to justify a compulsory acquisition.

Public Law and Equalities Considerations

When making decisions the Council must act reasonably and rationally. It must take into account all relevant information and disregard all irrelevant information and consult those affected, taking into account their views before final decisions are made. It must also comply with its legal duties, including relating to equalities.

As public bodies schools and local authorities have duties, known as the 'public sector equalities duties' under S 149 the Equality Act 2010.

The Equality Act 2010 places separate duties on Local Authorities as the responsible body (alongside the governing body) for schools maintained by the local authority.

6. Value for Money

All expansion proposals pursued, including Dormers Wells Infant and Junior, are subject to rigorous value for money (VfM) procedures through the feasibility study and option appraisal process. Providing Cabinet approval is granted, tenders will be sought in accordance with the Contract Procedure Rules and Public Contracts Regulations 2015 as appropriate and will be evaluated to establish the most economically advantageous tender to the Council. During the execution of the projects, regular progress review meetings will be held to ensure the projects are being executed to the approved budget and the timescales.

To date, the local authority contribution to Free Schools has been related to site costs and land receipts and the Department for Education have funded the capital costs for

the build directly. Schools set up as Free Schools currently represent good value for money for the Council (where new sites for schools are available) if meeting basic need for additional places.

7. Sustainability Impact Appraisal

The planning applications for building works will include an assessment of the impact on sustainability as outlined within the Council's procurement policies.

8. Risk Management

It is recognised that pupil projections may either under or overestimate future numbers and become less accurate the further into the future they go. Projections are kept under review as new data becomes available, including the termly pupil censuses and live birth data. The last detailed report on birth rate figures and population projections was presented to Cabinet in April 2014, directions for the link is above in this report.

It is intended that the programme would be phased where practicable to spread the cost of the work and allow adjustments to the programme should there be changes to the projected figures.

There are risks arising from construction costs, as the sector is seeing these increase. The position will be monitored throughout the tender process. Any changes in costs will need to be addressed as necessary.

There are established processes for managing capital projects and risks are identified and managed as part of the project management process. The tendering process will comply with best practice and be fully compliant with the Contract Procedure Rules and the requirements under the Public Contracts Regulations 2015 as appropriate.

Risk related to pupils attending Dormers Wells Infant and Junior School during the build period is addressed in the Equalities Analysis Assessment (EAA) attached as **appendix 1** and any plans developed will need to ensure disruption is minimised.

9. Community Safety

With regards to Dormers Wells Infant and Junior, concerns about transport, traffic and travel have been and will continue to be addressed during the planning process.

10. Links to the 6 Priorities for the Borough

Prosperous – The proposal is linked to the duty of the Council of creating the right conditions for economic growth, enhancing opportunities for local people, providing affordable, high quality housing and helping young people to achieve at school and compete in the labour market.

Delivering Value for Money – see **section 6**.

11. Equalities, Human Rights and Community Cohesion

An EAA for Dormers Wells Infant and Junior has been undertaken and is attached to this report.

12. Staffing/Workforce and Accommodation implications

Implications of the expansion programme will be managed within existing Council staff and any partner consultants. School expansions will have an impact on the school workforce and on school accommodation (i.e. appropriate expansion of staff and accommodation to manage additional pupils).

In regard to Dormers Wells Infant and Junior School, additional staff will be recruited as schools expand in both teaching and non-teaching staff.

13. Property and Assets

This report deals with schools property and assets. The need to provide an increased number of schools places at primary and high school level will require both short and long term solutions to be identified.

14. Any other implications

None.

15. Consultation

Officers have consulted widely with schools on the demand for primary and high school places and the pressures will be faced in meeting this demand over the coming years. In respect of formal proposals, statutory consultation requirements will be met.

With regard to Dormers Wells Infant and Junior, ahead of the planning application being submitted a full pre-planning consultation will be undertaken with local residents, Councillors, staff and parents at the school and with the Portfolio Holder.

The Council have undertaken statutory consultation with regard to the Planning for Schools DPD.

16. Timetable for Implementation

The expansion of primary schools are phased in over a period of 7 years, first adding an additional reception class and then adding an additional class to reception each year until the schools are fully expanded in all year groups. Secondary school expansions and Free Schools are also phased in over a 5 year period (Y7- Y11) until the expanded year group is fully implemented throughout the school.

The exact dates for school expansions cannot be given as timings can be subject to change.

Dormers Wells Infant School

The proposal is to submit a planning application, invite and evaluate tenders and award a contract with a planned date for the school to occupy the new accommodation in autumn 2016.

Dormers Wells Junior School

The proposal is to submit a planning application and go out to tender in October 2015. The proposed date for the school to occupy the new accommodation is autumn 2016.

Bulge expansion of existing High Schools

As outlined in the report, should neither of the planned Free Schools open in September 2016 it will be necessary to put alternative arrangements in place.

Acquisition of sites to establish permanent high schools

As outlined in the report, a significant shortfall in high school places is projected from September 2018 and so sites would need to be acquired with sufficient time to procure and construct necessary accommodation.

17. Appendices

Appendix 1: Equalities Analysis Assessment (EAA)

18. Background Information

1. Reports to Cabinet on need to increase school places in primary schools (particularly the reports of April 2008, December 2008, April 2009, September 2009, January 2010, July 2010, December 2010, January 2011, July 2011, September 2011, December 2011, January 2012, March 2012, July 2012, December 2012, January 2013, March 2013, June 2013, October 2013 and April 2014) are available on the Council's website at the following address:

<http://ealing.cmis.uk.com/ealing/Home.aspx>

2. Earlier consultation papers and the summary of the results are available on the Council's website at: www.ealing.gov.uk/pastconsultations

3. Statutory Guidance

Available at <https://www.gov.uk/government/publications/school-organisation-maintained-schools>

4. Planning for schools DPD.

Available at

http://www.ealing.gov.uk/downloads/download/3495/planning_for_schools_dpd_publication_version

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Judith Finlay	Executive Director Children and Adults	20/08/2015		
Gary Redhead	Assistant Director, Schools Planning and Resources	14/08/2015	17.08.2015	Throughout
Cllr. Binda Rai	Portfolio Holder, Children and Young People	20/08/2015		
Jane Batalona	Head of Legal (Social Care and Education)	14/08/2015	19.08.2015	Legal
Jackie Adams	Head of Legal (Property and Regulatory)	14/08/2015	18.08.2015	Legal and throughout
Donna Creffield	Lawyer Legal Litigation and Contracts	14/08/2015	18.08.2015	Legal and throughout
Sean Cosgrove	Senior Finance Business Advisor	20/08/2015	27.08.2015	Throughout
Michael Taylor	Finance Business Partner	20/08/2015		
Maria Christofi	Director of Finance	20/08/2015		
Pat Hayes	Executive Director of Regeneration and Housing	14/08/2015		
Lucy Taylor	Assistant Director of Regeneration and Planning Policy	14/08/2015		
Steve Barton	Principal Policy Manager	14/08/2015		
Samantha Powell	Senior Planner	14/08/2015		
Ian Smith	Delivery Unit Manager	14/08/2015		
Tony Daley	Head of Schools Service Property	14/08/2015		
Kwasi Ofori-Amoako	Capital Programme Manager	14/08/2015	20.08.2015	Finance and Throughout

Report History

Decision type:	Urgency item?
Key decision	No
Report no.:	Report author and contact for queries:
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