



## Notice of KEY Executive Decision

<b>Subject Heading:</b>	<b>Implementation of Phase 4 expansion programme – Secondary schools expansion – whether to proceed</b>
<b>Cabinet Member:</b>	Councillor Robert Benham Cabinet Member for Children & Learning
<b>SLT Lead:</b>	Tim Aldridge, Director of Children's Services
<b>Report Author and contact details:</b>	Pooneeta Mahadeo School Organisation Manager pooneeta.mahadeo@havering.gov.uk 01708 431092
<b>Policy context:</b>	The Council has a statutory duty to provide sufficient school places for the local population. In Havering the school age population is rising and this is projected to continue. The Council has to plan to meet the need and ensure permanent places are available on time.
<b>Financial summary:</b>	Costs for the building works required for providing additional places at these schools is estimated at £13.5m funded from the school expansion capital programme. Revenue implications for the schools will be funded from the DSG.
<b>Reason decision is Key</b>	The proposed expansions will cost £500,000 or more and will have significant effect on two or more wards
<b>Date notice given of intended decision:</b>	20/07/2017

**Key Executive Decision**

<b>Relevant OSC:</b>	Children and Learning
<b>Is it an urgent decision?</b>	No
<b>Is this decision exempt from being called-in?</b>	No

**The subject matter of this report deals with the following Council Objectives**

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

***Place an X in the [] as appropriate***

## Part A – Report seeking decision

### DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

- To support the implementation of the following schools' expansion:

School	Current capacity	Proposed Capacity as from	Current Published Admission Number	Proposed Admission Number
Drapers' Academy (11-18)	1100	1250 from Sept 2018	180	210 from Sept 2018
Marshalls Park Academy (11-16)	900	1200 from Sept 2018	180	240 from Sept 2018
Redden Court School (11-16)	750	900 from Sept 2018 1050 from Sept 2019	150	180 from Sept 2018 210 from Sept 2019
The Royal Liberty School (11-16)	600	900 from Sept 2018	120	150 from September 2018

### Recommendation

- To agree the release of funding to the academies or ESFA (Education and Skills Funding Agency) to proceed with expansion build works.
- To support the academies to put their business case or fast track application through for approval.

### AUTHORITY UNDER WHICH DECISION IS MADE

Cabinet agreed, at its meeting on 12 October 2016 to delegate the power to take further decisions regarding expansion or financial support for Academies (subject to the appropriate statutory processes and within the agreed capital programme) for Phase 4 of the Expansion Programme, to the Lead Member for Children & Learning after consultation with the Leader.

### STATEMENT OF THE REASONS FOR THE DECISION

- As primary children move into the secondary sector, the number of secondary age pupils (Years 7-11) in Havering schools is expected to rise significantly

## Key Executive Decision

from 14,495 in 2016/17 to 18,260 in 2023/24.

2. The Council needs to increase the capacity within the secondary sector to ensure the Council can continue to fulfil its statutory duty to provide sufficient secondary places in the area to meet the increased demand. The Council has selected the four schools set out in this Report for expansion as they are in the planning areas with highest demand, are currently oversubscribed and three have received Ofsted Reports of either “good” or “outstanding” The DfE has a strong expectation, especially in areas of basic need, that all ‘good’ and ‘outstanding’ academies should consider how they can best support their LA in meeting this duty. Where an academy agrees to expand in response to a proposal by an LA to meet a local need for places, the LA should meet these costs. The DfE provides capital funding to local authorities facing a shortfall of places (basic need), to help support them to meet their statutory duty to secure sufficient school places in their area.
3. Academy trusts proposing to make a significant change to the characteristics of an open academy, which will affect clauses in their funding agreement, MUST submit a proposal for change in advance of the change being made. A significant expansion is defined as an enlargement of the site so that it can provide spaces for at least 30 additional pupils. The expansion proposals at Drapers’ Academy, Marshalls Park Academy, Redden Court Academy and The Royal Liberty Academy are all significant changes which require approval, either through a fast track application or a full business case.
4. Academies rated ‘good’ or ‘outstanding’ at their last inspection, proposing to physically expand their premises, may follow the fast track process. Drapers’ Academy, Redden Court and The Royal Liberty Academy are rated as ‘good’ in their last inspection by Ofsted and can therefore submit the proposals for change through the ‘fast track’ application. It is expected that RSCs will approve the majority of fast track applications as long as the academy trust can provide the required evidence as follows:
  - a fair and open consultation has taken place, including that any consultation relating to admission arrangements which are necessary has been undertaken, the number and percentage in favour of the change has been considered, and if there are any objections, how the issues raised will be (or have been) managed;
  - funding has been secured in relation to the proposed change for both capital costs, and that there are no issues with current budget and/or finances. In the case of expansions, academies have sufficient funding for additional pupils, until lagged funding is applied;
  - the change is aligned with local pupil place plans and it is unlikely to have a negative impact on educational standards at the academy or at other local schools or colleges; and
  - that appropriate planning permissions and other consents required have been secured.
5. Certain changes can be fast tracked at academies, rated as ‘good’ or ‘outstanding’ in their last inspection by Ofsted and do not require a full business

### Key Executive Decision

case. Marshalls Park Academy will need to submit a full business case as the academy does not meet the fast track requirements.

### **OTHER OPTIONS CONSIDERED AND REJECTED**

Do Nothing - This is not practical due to the legal and statutory obligation placed on the Council to provide sufficient school places and the pressures currently faced across the Borough.

One of the objections from the Empower Learning Academy Trust suggests that their schools have sufficient vacancies which could cope with the excess demand taking the Council's area as a whole. This has been rejected because it does not address the significant growth in demand anticipated over the next 5 years, and does appear to reflect the need for the selected schools to expand to meet the parental demand as they are currently heavily oversubscribed.

The Council has limited funding available and has therefore had to select the schools which it has chosen to support for expansion from the pool of secondary schools in the area. The schools selected are all oversubscribed, are in the planning areas where there is the need to put additional capacity to meet demand for secondary places and have been assessed as having sufficient space to expand.

The consultation process ran from 12 June to 10 July 2017. 249 responses were received of which 36% of responses were in favour of the expansion proposals and 64% of responses were against the expansion proposals.

Issues raised against the expansion proposals were:

- School size and overcrowding
- Impact on educational standards
- Traffic and parking
- Lack of funding and resources
- Build new schools

The Council's responses to all of the issues raised have been set out in the attached Appendix 1 and there is no compelling reason for the Local Authority not to proceed with these proposals to meet the Council's statutory duties. The Governing Body and the Academy Trusts of the schools fully support the expansion proposals.

The consultation report is included as Appendix 1

**NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

**Key Executive Decision**

Name: Pooneeta Mahadeo

Designation: School Organisation Manager

Signature:

Date: 24/08/2017

## Part B - Assessment of implications and risks

### LEGAL IMPLICATIONS AND RISKS

The Council has a statutory duty under section 13 Education Act 1996 to ensure, so far as their powers enable them to do so, to secure that efficient secondary school education is available to meet the needs of the population of the area.

Under s.14 of the Education Act 1996, a local authority shall secure that sufficient schools for providing primary and secondary education are available for their area. Sufficient means sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. In meeting this duty, a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

Proposals for change for Academies must be submitted to the department through either of two processes, the 'fast track' application or 'full business case'. An assessment of the proposal will be made before the Regional Schools Commissioner (RSC) or Secretary of State, as appropriate, makes a final decision.

Whilst the Authority is not the ultimate decision maker in respect of the proposed expansions it can support them and in making funding available for them is making a decision on selection of the various schools which could be the subject of a public law challenge.

The consultation report sets out the representations of all stakeholders to the proposals and the Council's response. It is a public law duty to ensure that each of the responses to the consultation is conscientiously considered before a decision is taken.

The decision maker must also carefully consider any equality implications of the proposed decision making in accordance with section 149 Equality Act 2010 as follows:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Equality Impact Analysis and the Equality comments below set out the issues relevant for the consideration of this aspect. It is worth highlighting the concern that there may be that these proposals include expansion of Royal Liberty Boys School whereas Frances Bardsley Girls School is also oversubscribed within the same planning area and considers that it could expand to meet the demand. However, the Authority has already supported an expansion of the PAN for Frances Bardsley from 220 to 240 from 2016/17. The proposal in respect of Royal Liberty raises the PAN from 120 to 150. These proposals therefore address a gender imbalance in the

## Key Executive Decision

numbers of gender specific secondary school places as there are already more girls' places available in Havering even though the secondary school age population is 51% male and 49% female.

### **FINANCIAL IMPLICATIONS AND RISKS**

#### **CAPITAL**

Capital building works will be needed at Marshall Park Academy, Redden Court and The Royal Liberty Academy for expansion to accommodate the additional children. Drapers' Academy will accommodate the additional children within their existing accommodation and as such no costs are envisaged.

#### **Estimated Costs**

<b>Name of School</b>	<b>Proposal</b>	<b>Estimate costs</b>
Drapers' Academy	To expand from 6 FE to 7 FE	£0
Marshalls Park Academy	To expand from 6 FE to 8 FE	£5,500,000
Redden Court	To expand from 5 FE to 7FE	£4,000,000
The Royal Liberty Academy	To expand from 4 FE to 5 FE	£4,000,000

Funding of £13,500,000 is included within the approved school expansion capital programme for the above mentioned schemes.

Please note that these are estimates produced by the LA. Redden Court and The Royal Liberty expansions will be delivered by the ESFA and the funding will be transferred to the ESFA. The ESFA will confirm the amount of funding required following receipt of tenders. Should they be considerably higher than expected the local authority will be in a position to withdraw from the process, however once the contractor has been appointed the Council will be required to meet all costs, albeit with the ESFA seeking to minimise any variation.

The scheme at Marshalls Park Academy will be managed by the local authority.

#### **Revenue Implications for schools**

The revenue implications for secondary schools are that, in creating additional forms of entry, additional resources will be incurred particularly for teaching and support staff. Schools' pupil-related funding is calculated each year based on the number of pupils on roll at the previous October census. Because the financial year of academies runs from September to August it will be a full financial year before the additional pupil numbers are reflected in the academies' funding. Therefore, for the period September to August in the year of expansion, additional resources will need to be provided to meet the schools' additional staffing costs. This additional funding to



## Key Executive Decision

schools will be met from a Pupil Growth Contingency held within the Schools Budget (funded by the Dedicated Schools Grant) as agreed by the Schools Funding Forum. Under current arrangements 5/12ths of this funding (representing the period April to August) will be recouped from the ESFA so the net effect will be a cost to the DSG of 7/12ths of the total allocated representing the period September to August which is the same as it would be for expansions of LA maintained schools. This will be repeated each year as the expansions move through the schools' year groups to meet the costs of the additional classes required in the school prior to the additional pupils being reflected in the schools' formula funding.

The Government is currently finalising arrangements for a national funding formula which may include a factor for pupil growth as proposed in the consultation document. Details are awaited on the funding that this will allocate to expanding schools should it be introduced.

### **Risks**

As with most capital schemes, there is a risk that the schemes could overspend due to issues arising during the build process. For Marshalls Park these risks will be managed by the local authority and as such the Council will be in a better position to control cost. However for the schemes delivered by the ESFA the Council will have no control over the costs and will look for the ESFA to manage the risk. Any small issues arising can be funded from the remaining budget within the school expansion programme. However, should a significant increase in costs be faced it may be necessary to adjust plans for the remainder of the school expansion programme and/or seek additional funding. Such issues will be raised through the appropriate channels as the needs arise.

### **HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

The human resources implications for the schools to be proposed for expansion will be managed by the schools themselves. There is likely to be a need to recruit additional teaching and support staff and the relevant schools will undertake the recruitment and selection process in accordance with the appropriate policies and procedures. There are growing difficulties in recruiting to teaching posts and therefore schools will need to consider that additional resources and a longer recruitment timescale may be required to fill vacancies. The Havering Education HR service will provide support as appropriate and required to all academies that purchase relevant services.

### **EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

An Equality Impact Assessment (EIA) has been carried out for Phase 4 secondary school expansions.

The overall conclusion of this assessment is that the implications are either positive or neutral in that the expansion of the schools will help to ensure sufficient school places for the increasing numbers of children in Havering. The assessments have not identified any potential for unlawful conduct or disproportionate impact and conclude

### Key Executive Decision

that all opportunities to advance equality are being addressed. Havering's schools are successful, inclusive and provide a diversity of provision. The school expansion programme will ensure sufficient school places for the increasing numbers of children in Havering and will build on the successful provision that already exists in Havering's schools. By acting to ensure all children in Havering have access to a high quality school place, Havering is promoting equality of opportunity for all children and young people.

The EIA is included as Appendix 2.

### **BACKGROUND PAPERS**

**Appendix 1 – Consultation Report**

**Appendix 2 - Phase 4 Secondary Consultation EIA**

Key Executive Decision

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

**Decision**

Proposal agreed ✓

**Delete as applicable**

Proposal NOT agreed because

**Details of decision maker**

Signed 

Name: *Cllr Robert Benham*

Cabinet Portfolio held: *Childrens*

CMT Member title:

Head of Service title

Other manager title:

Date: *29<sup>th</sup> August 2017*

**Lodging this notice**

The signed decision notice must be delivered to the proper officer, Andrew Beesley, Committee Administration & Interim Member Support Manager in the Town Hall.

**For use by Committee Administration**

This notice was lodged with me on *29/8/2017*.

Signed .

