

	<p style="text-align: center;"><b>Assets, Regeneration and Growth Committee</b></p> <p style="text-align: center;"><b>12th March 2018</b></p>
<p style="text-align: right;"><b>Title</b></p>	<p><b>Transfer in and lease out to Saracens Multi-Academy Trust</b></p>
<p style="text-align: right;"><b>Report of</b></p>	<p>Councillor Daniel Thomas</p>
<p style="text-align: right;"><b>Wards</b></p>	<p>Colindale</p>
<p style="text-align: right;"><b>Status</b></p>	<p>Public</p>
<p style="text-align: right;"><b>Urgent</b></p>	<p>No</p>
<p style="text-align: right;"><b>Key</b></p>	<p>No</p>
<p style="text-align: right;"><b>Enclosures</b></p>	<p>Appendix A – Redrow School Transfer Plan</p>
<p style="text-align: right;"><b>Officer Contact Details</b></p>	<p>Chris Munday, Strategic Director, Children and Young People  <a href="mailto:Chris.munday@Barnet.gov.uk">Chris.munday@Barnet.gov.uk</a></p> <p>Chris Smith, Head of Estates - <a href="mailto:Chris.smith@barnet.gov.uk">Chris.smith@barnet.gov.uk</a></p>

### Summary

This report seeks in principle agreement to the acquisition from Redrow Homes Limited and subsequent lease of land (shown for identification on the 'School Transfer Plan' in Appendix A) to the Saracens Multi Academy Trust (or other academy approved by the Department for Education) to enable the construction of a new primary school in Colindale, funded by the Department for Education (DfE). The new Primary School, which is currently intended to be sponsored by Saracens Multi Academy Trust will provide a 3 form entry primary school including nursery provision in Colindale area and is a critical part of the infrastructure required to support the growth in new homes. As the school will help meet the basic need for school places in Barnet, the proposal is to transfer the land at a peppercorn rent with no premium to the Trust with agreement that the construction costs of the school is to be fully funded by the Department for Education.

The report seeks delegated authority for the Deputy Chief Executive to negotiate and agree the detailed terms of a transfer to the Council, 125 year lease to the academy trust, based on the Department for Education's standard Academy lease and associated documents.

## **Recommendations**

### **That the Assets, Regeneration and Growth Committee:**

- 1. approve the acquisition of the proposed school site by the Council under Section 106 Agreement of the Planning Consent Reference H/04753/14 and delegate to the Deputy Chief Executive authority to negotiate the detail of the legal documentation for the acquisition of land either freehold or by a long lease.**
- 2. agree the principal lease for 125 years of land (shown as school plot on the School Transfer Plan with such minor adjustments as may be appropriate) to the Saracens Multi Academy Trust (or other academy trust approved by DfE and who enters into the requisite funding arrangements with DfE or Education and Skills Funding Agency (ESFA)) at a peppercorn rent with no premium, based on the Department for Education's standard Academy lease to enable the provision of a new primary school in Colindale, funded by the Department for Education through the national free school programme.**
- 3. delegate authority to the Deputy Chief Executive to negotiate the detail of the legal documentation for the transfer of land, based on the Department for Education's standard Academy lease with a development agreement between the Council and the academy trust and such warranties from the building contractor and others as appropriate.**

## **1. WHY THIS REPORT IS NEEDED**

- 1.1** Since 2009, the council and central government have been investing to meet the very significant growth in demand for school places through expanding schools and building new schools. During this period, more than 8,000 extra school places have been delivered in the borough. Each year, the Children, Education, Libraries and Safeguarding Committee review the strategy for ensuring that there are sufficient school places and consider progress. At its meeting on the 21st September 2016, the annual school places report set out that the main focus now is to ensure that there will be sufficient primary school places as the very significant increase in the number of primary pupils moves through to the secondary sector. As the borough continues to grow, there is a particular focus on education provision in areas of regeneration and new housing development, as good schools and sufficiency of school places are critical elements of the infrastructure required to ensure the development of successful and sustainable communities.
- 1.2** Colindale is an area of significant housing growth and to date, new primary provision has been developed as part of expanding and rebuilding Colindale School and the Orion School, expanding Blessed Dominic, St Mary's and St John's, St Joseph's and the new Watling Park primary free school that has opened in Burnt Oak. The need now is to ensure sufficient primary provision is available. The council has been working in partnership with Saracens to support its application to the Department for Education to open a free primary school.

- 1.3 The proposal is for the Saracens Primary School to be developed on the Peel Centre, with a 3 form entry and nursery provision, built to BB101 standards (government guidelines for space standards in schools).
- 1.4 There is also an approval given by ARG in December 2016 to grant an academy lease for a secondary school at Trinity Square and Lanacre Avenue.
- 1.5 The subject land is to be transferred to the Council or a nominee of the Council by the developer of the Peel Centre, Redrow Homes Limited, under a Section 106 Agreement dated 23 December 2015 of the Planning Consent Reference H/04753/14; following service of a notice by the Council. The Council considers it preferable that the Council, rather than another entity, acquires the land. If the proposed academy lease is not completed, for example because the proposed new school is not properly constructed, or the lease ends early for any reason, the Council will be able to offer the school site to an alternative provider in order to achieve school places. Redrow Homes Limited has offered to grant a lease for 999 years. The detail of the land acquisition will need to be negotiated, but will be at no cost to the Council.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The recommendations in this report enable the provision of a new primary school to meet the needs of children and young people in the Colindale area.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Within the Colindale area, no other parcels of land have been identified of sufficient size or appropriate location to host a new primary school. The subject land is a Section 106 Agreement transfer, specifically assigned for education use and not to be made available for any other alternative use.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Following acquisition of the site, the Deputy Chief Executive will negotiate the detail of the legal documentation for the transfer of land, based on the Department for Education's standard Academy lease and associated documents. The DfE/EFSA and the academy trust are responsible for developing the school buildings from feasibility through to completion. Subject to planning consent, the aim of the DfE/EFSA is to have the school building complete in 2020/21. The Council will take a transfer under the Section 106 Agreement and grant a Development Agreement to the academy trust or (if required) the central Government department to enable the development of the school buildings, and on completion grant a 125 year lease at a peppercorn rent.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 The quality of the education offer is at the heart of Barnet's continuing success as a place where people want to live, work and study. It plays a crucial part in making Barnet family friendly, with many families attracted to the area by the

good reputation of Barnet's schools. Excellent educational outcomes and ensuring children and young people are equipped to meet the needs of employers are key to deliver the Council's vision set out in its Corporate Plan 2015-20 for:

- Barnet's schools to be amongst the best in the country, with enough places for all, and with all children achieving the best they can
- Barnet's children and young people to receive a great start in life and
- For there to be a broad offer of skills and employment programmes for all ages

## **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The proposal set out in this report would transfer the school plot to the Saracens primary school trust at a peppercorn rent at no premium to enable the construction of a new primary school. As this is not currently land owned by the Council, there is no loss of income or potential capital receipt.

5.2.2 The Department for Education/Education Funding Agency will be funding the construction costs of the school and facilities in line with Government building guidelines, contained in Building Bulletin 101. Until feasibility work has been undertaken it is difficult to provide an estimate of the costs that will be met by the DfE/EFSA. The Council has agreed to contribute £2.2 million to the project.

5.2.3 Due to pressing need for new primary provision in this part of the borough to support the new housing growth, if this new free school was not provided by the Department for Education, the cost of constructing an alternative option could fall to the council.

## **5.3 Legal and Constitutional References**

5.3.1 The Council's Constitution Article 7.5 responsibility for function states the functions of The Assets, Regeneration and Growth Committee, includes responsibility for regeneration schemes and asset management.

5.3.2 Council Constitution, Article 10 Table A provides that a less than best transaction is to be reported to The Assets, Regeneration and Growth Committee. The proposed lease will be for less than the best consideration obtainable for this property.

5.3.3 Under s.14 of the Education Act 1996, a local authority shall secure that sufficient schools for providing primary and secondary education are available in 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.

5.3.4 State funded schools are split into schools maintained by the Local Authority and those directly funded by Central Government. The former are split into a

number of categories, including foundation, community and voluntary aided schools. The latter include Academies and free schools (which are Academies which did not convert from a maintained school). For maintained schools, there are prescribed requirements in order to make specific alterations. This includes expanding existing schools to add additional form groups. The requirements are set out in the Education and Inspections Act 2006 and associated regulations. Academies do not have to follow the same requirements in order to expand. Section 6A of the Education and Inspections Act 2006 requires that local authorities seek proposals for the establishment of an academy if they think that a new school is required in their area. There are only limited circumstances when a local authority will be able to publish proposals to establish a new maintained school.

5.3.5 Section 123 of the Local Government Act 1972 places a duty on local authorities not to sell or let their property other than for the best consideration (price) reasonably obtainable, except with the consent of the Secretary of State for Communities and Local Government; other exceptions exist but are not applicable here. This duty does not apply where land is let or sold for the purposes of an academy. For this purpose, an academy is a school in respect of which “academy arrangements” have been made, as defined in section 1 of the Academies Act 2010. The Council should ensure that it does not enter the proposed lease and related documents unless it is satisfied that academy arrangements exist for a school on the site.

5.3.6 As and when the Council acquire the relevant land, the Secretary of State for Education would have the power to direct the Council to enter into an academy lease, or transfer the freehold ownership, if

- the land forms the whole or part of a site specified in a notification given to the Secretary of State under section 6A of EIA 2006, or a notice published under section 7 of that Act, (proposals for new schools) as a possible site for a new school; and
- before making the relevant scheme, the Secretary of State consulted the Council.

## **5.4 Risk Management**

5.4.1 If this proposal is not approved, then the Council may not meet its obligations to provide pupil places and may need to fund a future school development.

## **5.5 Equalities and Diversity**

5.5.1 The 2010 Equality Act outlines the provisions of the Public Sector Equalities Duty which requires Public Bodies to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; advance equality of opportunity between people from different groups; foster good relations between people from different groups.

5.5.2 The broad purpose of this duty is to integrate considerations of equality into day to day business and to keep them under review in decision making, the design

of policies and the delivery of services.

- 5.5.3 The new Saracens school will provide a comprehensive, inclusive education for children and young people in the Colindale area.

## **5.6 Consultation and Engagement**

- 5.6.1 Saracens Multi-Academy Trust undertook consultation and engagement with the local community as part of developing its application to establish a free school in Colindale which demonstrated support from the local community for the education offer proposed by this new free school. Demonstrating this support is a critical part of the DfE's process for the approval of a free school to be established.

## **6. BACKGROUND PAPERS**

- 6.1 Children, Education, Libraries and Safeguarding Committee, 21st September 2016 *Planning for new school places 2017/18 to 2019/20*
- 6.2 Planning Application – H/04753/14 and Section 106 Agreement dated 23<sup>rd</sup> December 2015.

## Appendix A

