

BIRMINGHAM CITY COUNCIL

JOINT CABINET MEMBER AND CHIEF OFFICER

MONDAY, 06 AUGUST 2018 AT 00:00 HOURS
IN CABINET MEMBERS OFFICE, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

3 - 16

- 1 **IMPROVEMENTS TO LICKEY HILLS PRIMARY & NURSEY SCHOOL -**
LONGBRIDGE INFRASTRUCTURE TARIFF PAYMENT TO
WORCESTERSHIRE COUNTY COUNCIL

Item Description

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- 2 **PROPOSED SETTLEMENT OF LEGAL PROCEEDINGS - PUBLIC**

Item Description

P R I V A T E A G E N D A

- 3 **PROPOSED SETTLEMENT OF LEGAL PROCEEDINGS - PRIVATE**

Item Description

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: THE LEADER JOINTLY WITH THE CORPORATE DIRECTOR, ECONOMY
Report of: Assistant Director Planning
Date of Decision: 01/08/2018
SUBJECT: Improvements to Lickey Hills Primary and Nursery School - Longbridge Infrastructure Tariff Payment to Worcestershire County Council
Key Decision: No
If not in the Forward Plan: Relevant Forward Plan Ref: n/a
(please "X" box) Chief Executive approved ☐
O&S Chairman approved ☐
Relevant Cabinet Member: Cllr Ian Ward: Leader of the City Council
Relevant O&S Chairman: Cllr Sir Albert Bore: Resources Overview and Scrutiny Committee
Wards affected: Longbridge and West Heath, Northfield

1. Purpose of report:

- 1.1 To provide details of the requirement to transfer Longbridge Infrastructure Tariff (LIT) funds to Worcestershire County Council (WCC) that were received from Bromsgrove District Council (BDC) as a result of the re-development of the former East Works site for housing. The resources will be spent on improvements at Lickey Hills Primary and Nursery School.
- 1.2 To seek approval for the Assistant Director, Planning to make the payment to WCC.

2. Decision(s) recommended:

That the Leader jointly with the Corporate Director, Economy:-

- 2.1 Authorises the Assistant Director, Planning to make a payment of £505,034.48 Longbridge Infrastructure Tariff account monies to Worcestershire County Council for the provision of removing the current mobile classrooms at Lickey Hills Primary and Nursery School and replacing with permanent facilities in accordance with the Memorandum of Understanding described in 5.3 and 5.4 of this report.
- 2.2 Authorises the Acting City Solicitor to negotiate, execute and complete all necessary legal documents to give effect to the above recommendations.

Lead Contact Officer(s): Hayley Claybrook, Planning Contributions Coordinator, Planning & Development
0121 303 4820

Telephone No: hayley.claybrook@birmingham.gov.uk

E-mail address:

3. Consultation

3.1 Internal

The proposal reflects a key request to support Education facilities originally made by Longbridge and Northfield Ward Members and the local community through the Longbridge Area Action Plan (LAAP) public consultation process. Officers from City Finance and Legal Services have been involved in the preparation of this report.

3.2 External

Worcestershire County Council (WCC) and Bromsgrove District Council (BDC) are both signatories of the 2010 Longbridge Memorandum of Understanding (MoU) along with the City Council and are supportive of the proposal. These parties meet regularly as the LIT Board to consider the use of LIT funding and its prioritisation.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

The Longbridge Area Action Plan LAAP is a Development Plan Document (DPD) that forms part of the Local Development Frameworks for both Birmingham and Bromsgrove. This project is compliant with the LAAP and has been approved by the LIT Board.

4.2 Financial Implications (Will decisions be carried out within existing finance and Resources?)

4.2.1 The MoU enables the City Council to act as banker on behalf of BDC and WCC for the 'pooled' LIT funds and accounts for any receipts into and payments out of the tariff fund. The terms of the MoU ensure that the City Council is not financially exposed in any way as a result of undertaking the banking role.

4.2.2 On 22nd January 2015, BDC as Local Planning Authority received Longbridge Infrastructure Tariff funds from St. Modwen (the developer) and subsequently transferred the sum of £502,354.79 to Birmingham City Council as per the MoU. With interest added to 31st March 2016, this balance is now £505,034.48. This report seeks to transfer this sum to WCC for the provision of removing the current mobile classrooms at Lickey Hills Primary and Nursery School and replacing with permanent facilities. There are no financial implications to the City Council in relation to this transaction.

4.3 Legal Implications

The MoU was prepared pursuant to Section 2 of the Local Government Act 2000, which enables the City Council to enter into arrangements which will promote the economic, social and environmental well-being of the area. In exercising these powers the City Council is obliged to have regard to the Secretary of State Guidance as to the application of Section 2 and the Council's Community Strategy. The MoU formalised the current working partnership arrangements between the three Councils.

4.4 Public Sector Equality Duty (see separate guidance note)

There are no Equalities issues for the City Council as the expenditure will be incurred by BDC and be subject to their monitoring.

5. Relevant background/chronology of key events:

- 5.1 The City Council in association with BDC and WCC prepared the LAAP to secure the comprehensive regeneration of the Longbridge area, following the closure of the MG Rover plant in 2005. The LAAP was adopted in April 2009 and is both a policy and implementation tool that sets out the aims and objectives for the Longbridge redevelopment; its proposals will guide the development and delivery of a sustainable and accessible new community
- 5.2 In May 2009, the City Council put in place a governance structure supported by specific working groups and delivery mechanisms to progress the LAAP aims and objectives.
- 5.3 The MoU was prepared and signed in October 2010 to ensure a consistent and joined up partnership working between the Councils. It outlines the cross-boundary arrangements and working structure between the three Councils, inclusive of the financial management of the LIT funds.
- 5.4 Although BDC and WCC will implement their own Town and Country Planning Act 1980 Section 106 agreement with the developer, which will include a provision for LIT contributions, the MoU outlines a structure for the Councils to 'pool' LIT developer payments in order to deliver the community infrastructure identified in the AAP. These banking arrangements for the LIT funds are fundamental to the MoU agreement.
- 5.5 In April 2016 an outline concept brief was submitted by Lickey Hills Primary and Nursery School to BDC and WCC for the provision of new permanent facilities as follows:
- Create a new library in the main building;
 - Redesign interior space in upper KS2 to provide group work / breakout space;
 - Redesign entrance to EYFS building to include new cloakroom area and wet room / changing space
 - Provision of additional toilets.
- 5.6 The school will be taking the lead on the project and a copy of the signed brief on behalf of WCC is attached Appendix 1. WCC will manage the project within its jurisdiction.

6. Evaluation of alternative option(s):

- 6.1 The City Council has to pay the TCPA S106 monies to BDC as part of the MoU signed with BDC and WCC. Failure to do so would breach the City Council's obligations under the MoU and potentially leaving the City Council open to litigation to recover the sum.

7. Reasons for Decision(s):

- 7.1 To enable the City Council to pay WCC in accordance with the MoU agreement and thereby delivering community infrastructure identified in the LAAP.

Signatures**Date**

Leader of the City Council
Cllr Ian Ward

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Corporate Director, Economy
Waheed Nazir

.....

List of Background Documents used to compile this Report:

1. Longbridge Area Action Plan
2. 2010 Memorandum of Understanding
3. Worcestershire County Council Concept Report (similar to the City Councils – Project Definition Reports)

List of Appendices accompanying this Report (if any):

1. Project Concept Brief – V1a CFC Approved

PROTOCOL

PUBLIC SECTOR EQUALITY DUTY

- 1 The public sector equality duty drives the need for equality assessments (Initial and Full). An initial assessment should, be prepared from the outset based upon available knowledge and information.
- 2 If there is no adverse impact then that fact should be stated within the Report at section 4.4 and the initial assessment document appended to the Report duly signed and dated. A summary of the statutory duty is annexed to this Protocol and should be referred to in the standard section (4.4) of executive reports for decision and then attached in an appendix; the term 'adverse impact' refers to any decision-making by the Council which can be judged as likely to be contrary in whole or in part to the equality duty.
- 3 A full assessment should be prepared where necessary and consultation should then take place.
- 4 Consultation should address any possible adverse impact upon service users, providers and those within the scope of the report; questions need to assist to identify adverse impact which might be contrary to the equality duty and engage all such persons in a dialogue which might identify ways in which any adverse impact might be avoided or, if avoidance is not possible, reduced.
- 5 Responses to the consultation should be analysed in order to identify:
 - (a) whether there is adverse impact upon persons within the protected categories
 - (b) what is the nature of this adverse impact
 - (c) whether the adverse impact can be avoided and at what cost – and if not –
 - (d) what mitigating actions can be taken and at what cost
- 6 The impact assessment carried out at the outset will need to be amended to have due regard to the matters in (4) above.
- 7 Where there is adverse impact the final Report should contain:
 - a summary of the adverse impact and any possible mitigating actions (in section 4.4 or an appendix if necessary)
 - the full equality impact assessment (as an appendix)
 - the equality duty – see page 9 (as an appendix).

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

- 1 The Council 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 the Equality 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.
- 2 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 4 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - (a) tackle prejudice, and
 - (b) promote understanding.
- 5 The relevant protected characteristics are:
 - (a) Marriage & civil partnership
 - (b) Age
 - (c) Disability
 - (d) Gender reassignment
 - (e) Pregnancy and maternity
 - (f) Race
 - (g) Religion or belief
 - (h) Sex
 - (i) Sexual orientation

Concept Document

Revised February 2016

Document purpose

Purpose of The Concept Document (or more commonly known as an Outline business case)

A Concept Document identifies a project idea that may turn into a proposed investment/project (*hereafter referred to as "project"*). It provides a high level overview of the idea to the Strategic level decision makers.

The Concept Document provides sufficient information to justify a decision whether or not the organization should move forward with the development of a full Business Case.

It should provide sufficient information to justify a decision as to whether or not to move forward with the development.

To provide an initial outline of the proposed project sufficient to identify why it is being proposed and what it seeks to achieve. The concept document needs to be approved by a Service Manager before proceeding with the potential project.

Project details

Project Name	Lickey Hills Primary and Nursery School
Programme Manager	Amanda Salisbury Headteacher
Project Sponsor	CFC Capital Programme
Business Owner	Children, Families & Communities (CFC), Provision Planning & Accommodation
Project Manager	If known at this stage

Document details

Version	1a
Version date	1 April 2016
Status	
Source file location	

PROJECT DEFINITION

1. Outline

Name of School: Lickey Hills Primary School and Nursery
Type of School: Primary
School Category:
Age range of Pupils: 3-11
Number of Pupils on School Roll: 435

2. Project description

What is it you propose to do?

Remove mobile classrooms as they are not fit for purpose

Redesign interior space in upper KS2 corridor to provide group work/breakout space

Redesign entrance to EYFS building to include a cloakroom area and wet room/changing space

Resite library into the main school building (currently housed in mobile classrooms)

Additional toilets

3. Project background

Please detail the background and context to this project, what opportunities or problems prompted it?

Open plan teaching areas with sink to be shared by 4 adjacent class bases (approx 120 pupils) in line with Bulletin 103; Figure 7, Page 14

PR136 C Shared teaching with sink - Open plan teaching area shared by adjacent classbases without sinks to enhance the range of activities, typically junior (Key Stage 2)

Also as per Figure 10 on Page 17 to also include breakout space per two KS2 classrooms.

EYFS (approx 60 pupils) do not have a cloakroom, they each have access to a peg located in the building and plastic boxes to store clothing items such as book bags, scarves, hats etc. This impacts on the floor space of the building, safety and does not enable children to access these items easily and independently (part of the EYFS curriculum).

There is no wet room/ changing facility in the EYFS building so pupils have to be taken across the school playground to the main school building.

Concept Document

Revised February 2016

The school library is currently housed in the mobile classroom which is being removed. Children would benefit from this being housed in a prominent and accessible area in school as it is used during the school day and after school by children with their families.

4. Project objectives

Please list the objectives of the project - what does it seek to achieve?

To provide sufficient and suitable space for upper KS2 pupils to study out of the classroom

To provide adequate cloakroom and toileting space for EYFS pupils (Reception and Nursery)

To provide a new library area in an accessible part of school giving access for children and families during and after school.

Removal of temporary mobile classrooms.

5. Project outcomes

Please list the outcomes the project that is what is it that will be produced or changed as a result of the project?

Upper KS2 pupils will have space to work in groups out of the classroom to ensure learning is optimised for those who require additional support . This will be accessible for all 4 classes.

EYFS pupils will have adequate cloakroom space which does not impact on their learning area. Cloakroom items will be accessible to pupils and they will be able to become increasingly independent in accessing these. Health and safety issues will be addressed as items will be stored out of the classroom.

A dedicated library area will provide access during and after school for families. This will support the school development plan in raising the profile of reading and ensuring school promotes this by providing a suitable area.

OUTLINE BUSINESS CASE

6. Options



Subject to formal feasibility.

7. Project cost

Subject to formal feasibility.

8. Ongoing costs

Once completed, it is expected that all costs associated with maintenance, servicing, repairs, and renewals in relation to this accommodation will fall upon the school to address in the first instance, under delegated responsibility and local management, to include all items of F&E.

9. In scope

Detail all of the products that the project is to produce. This should include a description of the product and its requirements.

See Box 4.

10. Not in scope

- It should be noted that it is not the intention to address perceived inadequacies of existing accommodation beyond this scheme as funding will not allow this.
- Funding cannot be used primarily to address suitability issues and in developing the feasibility, it is important that a solution does not raise expectations which cannot be funded.
- Replacing the loss of existing accommodation may be included within reason, where agreed, but it is not the intention of this project to look to improve existing facilities if they are not a necessary feature of the proposed scheme. Surplus accommodation will not be replaced.
- Additional works maybe considered at the outset, however, it is expected that any agreed additions will not have an impact on the main project in terms of cost and programme, and that if agreed; all additional costs will be met by the responsible party.

11. Return on Investment/Alignment with Strategic Plan

What are the longer term benefits/strategic goals, savings and/or financial gains this project can bring to the Council?

- Investment in improved school buildings to help drive higher standards of education.
- Likely reduced costs in school transport as students will be better able to attend their local school or school of their choice.

12. Known Risks/Constraints

- Site constraints and abnormal costs re asbestos/other unforeseen items.
- Planning process (if applicable).
- Resource limitations.
- Work will have to take place around a live site with minimum disruption and impact in allowing the school to function as normal as is possible.
- Use of untried and untested suppliers and contractors.
- Use of inexperienced consultants/agents.

13. Assumptions

- It is assumed that the site and buildings are owned by Worcestershire County Council without any covenants.
- It is assumed that all costs will include fees, loose and fitted furniture and equipment (in terms of IT to include interactive whiteboards only), and buildings costs.
- Any portable IT equipment (hardware) will not be included unless specifically agreed as part of the project from the outset.
- It assumed that the complexity of the project has been assessed and considered when appointing the project team.
- It is assumed that all feasibility work and subsequent investigations will include appropriate assessments on current loading capacities in respect of all necessary services to include gas, water, drains, and electrics, etc.
- It is expected that the school in converting to Academy status will continue to allow the LA to conclude the project.

14. Dependencies

This can include anything that the project interfaces with, such as another project or system and anything that the project is dependent upon happening

15. Stakeholders

- WCC CFC
- School Users
- Governors

16. Information Technology Impact

OUTLINE PROJECT PLAN

17. Timeline /Timescales

This describes all time related factors that will influence this project.

Subject to formal feasibility.

18. Resources/Funding

This should attempt to identify the different types of resources that will be consumed and the source of funding (if known) for the request.

There is a maximum S106 allocation of £512,958. Any costs over and above this will be funded from school sources.

Please note the following funding conditions:

- Any significant savings identified during the delivery stage must be referred back to CFC and it must not be assumed that any savings will be spent elsewhere on the project.
- Any works requested above the scope agreed must be referred back to CFC for funding clarity and approval.
- It is expected that upon completion of this project, any official opening ceremony that may take place, is to be organised by the school in accordance with the attached policy guidance.

19. Project Team

- CFC - Capital Accommodation Officer
- Head teacher
- Lead consultant
- Project Manager

Appendices

Item	Reference

Amendment History

Document Owner: CFC

Version	Date	Reason for Amendment
1a	1 April 2016	Revised school draft.



Concept Document

Revised February 2016

Approvals To Proceed in accordance with the contents of this brief.			
	Signature	Title	Date
Robert Williams <i>Robert Williams</i>	<i>Robert Williams</i>	Manager – Universal Provision and Placement 0-19	6/5/16
Amanda Salisbury	<i>Amanda Salisbury</i>	Head Teacher	12/4/16
Mario Claydon	<i>Mario Claydon</i>	Chair Of Governors	12/04/2016

EQUALITY IMPACT ASSESSMENT SCREENING

1. Delivery and Person Impact

Please consider whether this project could have a disproportionate impact on service delivery or other aspects of daily life for the following groups of people.

	Details & Comments
Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	
Gender Reassignment	(This refers to a person who has undergone, is undergoing or proposes to undergo a process (which does not have to be a medical process) to change their sex)
Pregnancy and maternity	



2. Resource Impact

Could this project involve or result in a significant commitment, or reduction, of resources. If so, give details.

3. Existing Inequalities Impact

Does this project relate to, or affect an area where inequalities are already known to exist? If so, give details.

4. Is a full EIA required

An EIA is not always needed. Where you have decided that an assessment is not required please clearly summarise the reasons for your decision, including any factors you have taken into account, in the box below.

EIA not required: reasons and additional comments

If you need to undertake a full EIA, please go to <http://apps33/cms/rd/human-resources/eig-toolkit/equality-and-diversity/equality-impact-assessments-e.aspx> for the template. If you require assistance completing the full EIA, please contact the Corporate Equality and Diversity Team on ext. 6225 or 6938.



BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to: **CABINET MEMBER FOR HEALTH AND SOCIAL CARE JOINTLY WITH CORPORATE DIRECTOR FOR ADULT SOCIAL CARE AND HEALTH**

Report of: **Head of Service Enablement - Social Care and Health**

Date of Decision: **6th August 2018**

SUBJECT: **PROPOSED SETTLEMENT OF LEGAL PROCEEDINGS**

Key Decision: **No** **Relevant Forward Plan Ref:** **N/A**

If not in the Forward Plan: **Chief Executive approved** ☐
(please "X" box) **O&S Chair approved** ☐

Relevant Cabinet Member(s) or Relevant Executive Member: **Cllr Paulette Hamilton - Health and Social Care**

Relevant O&S Chair: **Cllr Rob Pocock – Health and Social Care**

Wards affected: **N/A**

1. Purpose of report:

- 1.1. To seek approval to finalise arrangements for the proposed settlement of legal proceedings.
- 1.2. The accompanying private report contains commercially confidential information and legally privileged information in relation to the proposal. The two reports - public and private - must be read together, as this public report does not repeat information contained in the private report.

2. Decision(s) recommended:

That the Cabinet Member for Health and Social Care and the Corporate Director for Adults Social Care and Health:-

- 2.1 Notes the content of this report.

Lead Contact Officer(s): **Afsaneh Sabouri**

Telephone No: **0121 303 1783**

E-mail address: Afsaneh.Sabouri@birmingham.gov.uk

3. Consultation

3.1 Internal

Officers from Adult Social Care, Finance and Legal Services have been involved in the preparation of this report and have been updated during the settlement discussion and negotiations seeking to resolve the claim.

3.2 External

N/A. The proposed settlement will not have any impact on citizens or third party organisation.

4. Compliance Issues:

4.1 Are the recommended decisions with the Council's policies, plans and strategies?

The City Council's Constitution allows Cabinet Members jointly with Chief Officers to make decisions in relation to revenue spend up to £0.5m and capital spend of up to £1m.

4.2 Financial Implications

The proposed settlement can be accommodated within existing budgets available to the Adult Social Care and Health directorate through Disabled Facilities Grant. Further details are set out within the Private Report.

4.3 Legal Implications

As detailed within the Private Report.

4.4 Public Sector Equality Duty (see separate guidance note)

N/A

5. Relevant background/chronology of key events:

- 5.1 In legal proceedings between Birmingham City Council and a private company, it is appropriate for the Local Authority to consider proposed negotiated settlement. The proceedings relate to a challenge to the decision and process for appointment of contractors instructed to carry out Disabled Facilities Grant funding work in Birmingham. Steps have been taken to ensure that the proceedings, while they continue, have had no impact on the Council's ability or commitment to delivering Disabled Facilities Grant funded work in the city, putting citizens first. The Council has already successfully challenged a restriction which would have otherwise required it not to engage contractors until the proceedings were concluded. The Council has defended the proceedings from the outset, but is also under a duty to reflect and consider at each stage whether the best interests of the city are served by employing resources and officer time in the proceedings, or if a practical settlement at an earlier stage will deliver better value. The private company has recently offered settlement, which the Council is advised to give due consideration.

6. Evaluation of alternative option(s):

As set out in the private report

7. Reasons for Decision(s):

To seek formal approval to finalise arrangements for the proposed settlement of legal proceedings in line with BCCs' Constitutional arrangements.

Signatures

Date

Cabinet Member for Health and
Social Care

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Corporate Director for Adult
Social Care and Health

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List of Background Documents used to compile this Report:

None

List of Appendices accompanying this Report (if any):

1. Equality Act 2010

Report Version

v5

Dated

31/07/2018

Equality Act 2010

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

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 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 4 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
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 - (f) race
 - (g) religion or belief
 - (h) sex
 - (i) sexual orientation