

Report for: Cabinet Member Decision

Item number: To be added by the Committee Section

Title: Legal Agreement between Haringey Council and St Mary's Infant School

Report authorised by: Ann Graham, Corporate Director Children's Services

Lead Officer: Caroline Brain, Director CYP Commissioning & Programmes

Ward(s) affected: All

Report for Key Decision:

1. Describe the issue under consideration.

1.1 Haringey Children Service's Team secured **£7m** of DfE Capital funding, alongside HNPCA contribution of **£3.2m** and other LA contributions of **£2.2m**, totalling **£12.4m** to develop education provision for children and young people with special education needs and disabilities (SEND) as part of the Safety Valve Programme.

1.2 This scheme is one of the six of the original schemes approved by Cabinet on the **6th of February 2024**, each provision to be delivered within the **£12.4m** Safety Valve Programme Funding envelope - refer to background paper ([Haringey Safety Valve Programme SEND Resources Provision Cabinet Paper](#) 2023).

1.3 This paper focuses on St Mary's Infant School site, which will be operated as a satellite site by Park View Secondary School. This will enable the Council to create the 34 key stage 3/4, Social, Emotional & Mental Health (SEMH) resource provision places.

1.4 Cabinet approval is required for the signing of a funding agreement, whereby the London Diocesan Board for Schools (LDBS) will surrender all occupational rights and interests in the St Mary's Church Lane Infant site ("Church Lane Site") and any claims to call forth the statutory transfer of the site under the Schools and Framework Act 1998. The Council in return for this surrender will provide funding towards LDBS for the value amount (see exempt appendix one), this is for the expansion of St Mary's Junior School Site at Rectory Road ("Rectory Road Site") This will allow the infant pupils to vacate the Church Lane site, allowing the Council to take possession on a permanent basis for the programme team to build the required SEN provision.

1.5 The Councils' interests are protected as the Church Lane Site will be surrendered on the signing of the funding agreement along with the caretaker's house also located within the Church Lane Site. The Council will then immediately grant a licence back to allow the school to remain on the Church Lane site. The funding value for site surrender as detailed will be released in two instalments, the first instalment will be subject to condition precedents

will be initially released to enable LDBS to complete their pre-application work (see exempt appendix one). The remaining funding will be released in arrears monthly according to evidence provided by the LDBS of works completed in that monthly period. The retention will be paid when the Church Lane Site is entirely vacated under the licence.

1.6 The LDBS has confirmed they have the remaining balance will be provided by the Grieg Trust for the development costs for the completion of the works at the Rectory Road Site and are not just solely relying on the agreed funding.

1.7. The Council would then undertake phase two works to reconfigure the Church Lane site upon vacant possession whereby Haringey's business as usual procurement rules would apply. The cost of delivering the site surrender and the capital alteration works at Church Lane site is detailed in the (exempt appendix one,) including the full costs of the funding agreement. This outline proposal has already been approved by Cabinet. However, this paper is solely concerned with the presenting the detail of this specific scheme comprising the site surrender of the Church Lane site and the release of the detailed costings in the (exempt appendix one) to the LDBS under the funding agreement as described in this report.

1.8 The central aim of the programme is to ensure that the council supports children with SEND within borough, close to home and wider support networks. From a financial standpoint the failure to move forward with the project would continue to increase pressure on the high needs block, with students being placed out of borough at a high cost.

2. Recommendations

2.1 The Cabinet Member for Children, Schools and Families authorises the Council:

2.1.1 To agree and enter into the funding agreement between the Council, the London Diocesan Board for Schools and the Governing Body and/or Trustees of the St Mary's Church of England Primary School in the agreed form annexed to Part B (exempt) of this report.

2.3 Alternative options considered.

2.4 Do Nothing – If the Council did not proceed with the capital schemes as outlined the High Needs Block would continue to come under sustained pressure. In academic years 27/28 and 28/29 the cost to the service would be approx. **£2.5m**.

2.5 To commence the site surrender as recommend in this document. The new provision at St Marys Church of England Primary (run by Park View) once scaled will provide an avoidance between 27/28 and 28/29 of **£1.757.457**. This figure has been calculated (see table one) once the Councils placement costs are deducted, and the mobilisation payment provided to Park View in the initial scaling up period. This cost avoidance alone covers the cost of the site surrender. The St Marys site has further potential for cost avoidance in future years to scale up from 34 places to 42 which provides further flexibility within the system if required.

Table One: Resource provisions.

Provision	Number of places	Start date for pupils (phasing)	End date for places to be filled
Secondary and post 16 SEMH Park View Secondary school	34	Sept – 2025	Sept – 28/29
Cumulative Cost Avoidance 27/28 to 28/29			£1,757,457

2.6 Procurement for a New Build – This option has been discounted due to a high-cost analysis providing a conservative estimate of **£6m**. This has been based upon, high-level feasibility studies conducted on projects which have provided places on a smaller scale.

3. Background Information

Key Programme developments

3.1 In February 2023 Children's Services created an expression of interest process, inviting applications from both primary and secondary schools for the capital investment allocated as part of the Safety Valve Programme to run SEND resource provisions.

3.2 By the end of March 2023, the project team received several expressions of interest (EOI) from both primary and secondary schools. The project team then mobilised a moderation group comprising of independent representatives from our local Integrated Care Board, parent, and carer representatives from SEND Power, and colleagues from Haringey's Capital Projects and Property team.

3.3 Following the moderation, the team selected the most appropriate schools based upon the needs of children in the borough, the ability to deliver a high-quality curriculum and each school's financial sustainability.

3.4 Of the two secondary schools selected Park View Secondary School was chosen to provide the 34 SEMH places required by the Safety Valve Programme. The project team approached St Mary's Church of England Primary School to explore if the school would be willing to merge the Church Lane Infants' site onto the St Mary's Junior site, freeing up the former for use as a Safety Valve unit. This presented benefits for both parties: it reduces the long-term cost pressures on the school team at St Mary's due to falling school rolls, while providing vacant possession of a fit for purpose site, requiring minor reconfiguration to prepare the site for SEND secondary cohort needs.

3.5 Once this proposal was presented to St Mary's, the project team visited the site at the Infant site to assess its viability for the Safety Valve Capital Programme, mapping the space allocation in accordance with the DfE's SEND Building Bulletin 104 guidelines. The team also sought the input of an independent architectural specialist who confirmed the site was suitable for the proposed use. This proposal was set out in the cabinet paper presented on **6th February 2024**.

3.6 Contingency has been set aside for the reconfiguration of the Infant's site at Church Lane for SEN use. The main internal works to be undertaken are the replacement of existing toilets with age-appropriate facilities, new furniture for older pupils, and additional door access controls throughout. The playground equipment will need to be removed, and the surfaces made good. The overall fabric of the building is in good condition, but there may be some items that require replacement or improvement; hence the contingency being held.

3.7 The overall cost of delivering the scheme is, therefore, estimated and detailed in (exempt appendix one) including the full costs of the funding agreement and capital alterations. If the equivalent 34 SEMH school places was delivered as part of a new build, the estimated total cost of the scheme would be c. **£3.7m**, based on a gross total area of 924m² (calculated using DfE's space guidance within Building Bulletin 104) and a total outturn cost of £4000 per m², this does not take into account the purchasing of land and an over conservative estimate for a new build would be **£6m**. The use of the St Mary's Infant site does, therefore, offer better value for money than building a new facility on a council-owned site elsewhere, assuming sufficient space was even available.

3.8 To ensure that schools remain updated and aware of the direction of travel for the project, the Programme and Commissioning Team, Capital Projects Property Team and Finance Team have all worked across departmental barriers with a collaborative approach on the preparation of each of the schemes. Schools are kept fully informed via site specific sub-groups, which in turn report to the Children and Young People's Capital Board, chaired by the Corporate Director of Children's Services.

4. Contribution to the Corporate Delivery Plan 2024-2026 High level Strategic outcomes

4.1 The objectives of the Safety Valve programme are aligned with the priorities within Haringey's Corporate Delivery Plan 2024-2026 specifically:

Theme 3: Children and young people

- o Outcome 1: Best Start in Life – The first few years of every child's life will give them the long-term foundation to thrive.
- o Outcome 2 Happy Childhoods - All children across the borough will be happy and healthy as they grow up, feeling safe and secure in their family networks and communities.
- o Outcome 3 Successful Futures - Every young person, whatever their background, has a pathway to success for the future.

4.2 This work contributes to Haringey's SEND Strategy 2022- 2025, which contains 5 priorities, of which Priority One and Priority Two identify respectively the need to support children at the earliest opportunity to access the intervention they need to achieve and thrive and 'Wherever possible, we will meet the needs of Haringey's children within Haringey'. This also links to priority two within Haringey Early Years Strategy 2022 - 2026: Every child should be able to have access to the high-quality inclusive provision that is tailored to their needs.

5. Carbon and Climate Change

5.1 The Council has set the date for a zero-carbon deadline of 2027, including core council operational buildings and all transport-related activities undertaken by the Council in the delivery of core services. The rest of the buildings from which the Council delivers services and is directly responsible for their operation (such as schools) will be net zero carbon by 2041. This will apply to the resource provisions outlined in this cabinet report.

5.2 The council will continue to aim to reduce its overall energy consumption and will monitor its environmental performance, with attempt to reduce revenue spend on energy. Key partners which are required to deliver this vision include providers of currently outsourced services and other members of the council's external supply chain.

6. Statutory Officers comments (Director of Finance (procurement), Director of Legal and Governance, Equalities)

6.1 Finance

The investment proposed in this report of (exempt appendix one) is included in the capital funding plans for the Safety Valve programme that will support delivery of additional in borough SEMH places as set out in the safety valve agreement with the DfE that expects to eliminate the accumulated deficit on the High Needs Block by March 2028.

6.2 Procurement

Strategic Procurement note the contents of this report and confirm there are no procurement implications in Cabinet approving the recommendations stated in Paragraph 3 above, as property transactions and funding agreements sit outside of the Procurement Act 2023.

6.3 Legal

6.3.1 The Director of Legal and Governance (Monitoring Officer) was consulted in the preparation of the report.

6.3.2 This report seeking authority to enter into the funding agreement with the London Diocesan Board for Schools and the Governing Body and/or Trustees of the St Mary's Church of England Primary School. Under Section 1 of the Localism Act 2011, the Council has a general power of competence and may enter into grant funding agreements in accordance with recommendation 2.1.1.

6.3.3 Pursuant to the provisions of the Council's Contract Standing Order (CSO) 21.06 and in accordance with CSO 2.01(c), Cabinet has authority to approve the entering into of an agreement for the award of a grant to an external body where the value of the grant is £500,000 or more and as such the recommendation in paragraph 3.1.1 requesting approval from Cabinet to enter into grant funding agreement with the London Diocesan Board for Schools and the Governing Body and/or Trustees of the St Mary's Church of England Primary School for (see exempt appendix one) is in line with the provisions of the Council's CSO.

6.3.4 It is important that any grant funding agreement that is entered into by the Council contains clawback clauses that will enable the Council to clawback any funding from the recipient where the conditions of the funding are not adhered to

6.3.5 Paragraph 1.4 of this report provides that the Council will enter into a deed of surrender with the LBDS and the Governing Body of the School on entering into the funding agreement, upon which all rights and interests in the Church Lane Site will be released to the Council. The surrender will include the school's statutory right to require the Council to transfer the freehold interest in the site under the Schools Standard and Framework Act 1998. This is not an acquisition for the purposes of section 120 of the Local Government Act 1972 since the freehold interest already sits with the Council but a surrender of rights and interests by the LBDS and the School. The Council's authority to enter into the deed of surrender will be authorised under recommendation 3.1.1 as an associated document and annex to the funding agreement.

6.3.6 Paragraph 1.5 of this report provides that the Council will enter into a licence to occupy and an extension of the licence with the Governing Body and/or Trustees of the St Mary's Church of England Primary School to allow them to remain on the Church Lane Site following the surrender and for the duration of the works. Section 1 of the Localism Act 2011 gives local authorities a general power of competence, this includes entering licences to occupy. The Council's authority to enter into the licence to occupy and any extension, will be authorised under recommendation 3.1.1 as an associated document annex to the funding agreement.

6.3.7 The Director of Legal and Governance (Monitoring Officer) sees no legal reasons preventing the approval of the recommendation in the report.

7. Equality

The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not

The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

- The decision in this paper is to create a SEMH resource provision for 34 school places on the site of St Mary's Infant School, which will act as a satellite site of Park View Secondary School. This resource provision will have a positive impact on the community and young people in the west of the borough.

- The provision will provide targeted support for pupils with SEMH while keeping them in mainstream schools. It is believed this will deliver better educational outcomes to the targeted cohort and benefit young people, especially those with special needs and disabilities.
- The report highlights the increase in pupils with SEMH west of the borough, with wards such as Fortis Green, Alexandra Park and Muswell Hill that saw an increase of 221%, 140% and 188% between 2020 and 2025, respectively. It is therefore anticipated that this provision will help towards bridging the gap in equitable outcomes for young people with disabilities.
- The report also acknowledges that there is an increased need for a SEMH provision for primary school pupils, however a project is underway to create a 10 place SEMH provision at Alexandra Primary which will address this need.
- Other findings within the EQIA found that children of White British and Black British/Caribbean backgrounds are disproportionately represented in the SEMH cohort. The provision would therefore also benefit those young people of ethnic minority background.

8. Use of Appendices

Appendix One: Exempt Information

Appendix Two: contains the Equality Impact Assessment

Appendix Three: Background Paper: [Safety Valve Programme Cabinet Paper 13th of September 2022](#)

Appendix Four: Background Paper: [Haringey Safety Valve Programme SEND Resource Provision Cabinet Report](#)

Further supplementary information regarding the Safety Valve Programme Update can be viewed on the council's website. A hyperlink is provided here to the web page -> [here](#).