

Children and Young People Select Committee			
Report Title	School Place Planning Update – Draft Strategy and update on Free Schools		
Key Decision	No	Item No.	9
Ward	All		
Contributors	Executive Director for Children and Young People		
Class	Part 1	Date:	11 January 2017

1. Summary

- 1.1 This report updates the committee on school place planning, setting out the new draft Strategy 2017-2022 which is currently out for public consultation.
- 1.2 The report also updates the Committee on development of Free Schools in Lewisham.

2. Purpose

- 2.1 The report requests the committee to consider and comment upon the draft School Place Planning Strategy 2017-2022. Following comments from the committee and the consultation responses the strategy will be updated prior to submission to Mayor and Cabinet in March 2017 for approval, and launch in April 2017.
- 2.2 The report also updates the committee on the Free School agenda, including the national position and the local position including approvals by the Secretary of State and other potential schemes.

3. Recommendations

- 3.1 For the committee to consider and comment upon the new (draft) Place Planning Strategy 2017-2022 and the Free Schools update.

4. Policy Context

- 4.1 The proposals within this report are consistent with '*Shaping Our Future: Lewisham's Sustainable Community Strategy*' and the Council's corporate priorities. In particular, they relate to the Council's priorities regarding *young people's achievement and involvement*, including *inspiring and supporting young people to achieve their potential*, the *protection of children and young people* and *ensuring efficiency, effectiveness and equity in the delivery of excellent services to meet the needs of the community*.
- 4.2 The Local Authority has a duty to ensure the provision of sufficient places for pupils of statutory school age and, within financial constraints, accommodation that is both suitable and in good condition.

- 4.3 In aiming to improve on the provision of facilities for primary education in Lewisham which are appropriate for the 21st century, the implementation of a five year place planning strategy will contribute to the delivery of the corporate priority *Young people's achievement and involvement: raising educational attainment and improving facilities for young people through partnership working*.
- 4.4 It supports the delivery of Lewisham's *Children & Young People's Plan (CYPP)*, which sets out the Council's vision for improving outcomes for all children and young people, and in so doing reducing the achievement gap between our most disadvantaged pupils and their peers. It also articulates the objective of improving outcomes for children with identified SEN and disabilities by ensuring that their needs are met.

5. A new School Places Strategy

- 5.1 Highlighted as a priority in the recent Lewisham Education Commission Report, the new (draft) Place Planning Strategy 2017-2022 will succeed the existing Lewisham Primary Strategy for Change 2008-2017.
- 5.2 Within the strategy officers have reviewed what has gone on before and what needs to be achieved in the future. A brief overview of the main points are described below, and the full draft strategy complete with appendices are attached.
- 5.3 The strategy looks at how the council delivered the Primary Strategy for Change 2008-2017 along with the recommendations made by the Lewisham Education Commission and as such makes seven key recommendations;
1. We must finish what we have started, and learn from our experiences. Over 50 projects are currently still being worked on and must be closed out
 2. We need to maximise use of the investment that has already gone into schools therefore we should be recycling bulge classes where projections justify it – unless there is a good reason not to
 3. We need to take advantage of free school opportunities – working with potential sponsors and the EFA to secure what Lewisham needs
 4. We need to re-evaluate localities and previously considered expansion opportunities alongside demographic change and future growth projections to identify value for money projects as well as a more accurate forecasting model
 5. We need to work with the Early Years Foundation Stage (EYFS) team to consider the recent sufficiency review for EYFS and develop a plan for childcare and nursery education
 6. We need clear plans for Special Educational Needs and Disability (SEND) places and Alternative Provision (AP) – providing more of the right kind of places within the borough and reducing the number of placements out of borough
 7. We need to develop a better information sharing agreement with other local authorities to share data and information relating to school place planning and continue to work as part of London Councils
- 5.4 Building on those recommendations we have formed a revised set of five principles to guide our work, these are;

1. We aim to provide primary school places according to the level of need within different localities and we will continue to use 'planning areas'. Our aspiration is for children to go to primary school within one mile, but within two miles is reasonable
 2. As far as possible our school expansion proposals will be for schools that are already achieving high standards and if not, have robust school improvement plans in place
 3. We will work with external partners to overcome the financial challenges related to providing additional school places (i.e. Department for Education, Education Funding Agency, Dioceses, Multi Academy Trusts)
 4. We will aim for efficient delivery of education, with consideration of the economies of scale and the viable size for schools and impact on revenue budgets
 5. We will ensure that any proposal for the provision of extra places is scrutinised both in terms of suitability and value for money as well as making best use of existing assets and resources
- 5.5 Taking the recommendations and principles into account, alongside our current forecasting we therefore believe that we will need to deliver the following to ensure sufficient places;
- 5.6 **Primary** – To ensure sufficient primary places the council will work with schools to recycle bulges where required. We will also work with the Education Funding Agency, Department for Education, Regional Schools Commissioner and potential free school sponsors to provide an additional four forms of entry (120 places) of new provision by 2022 (with plans for a further four forms of entry by 2025).
- 5.7 **Secondary** - The council's first priority will be to make existing Lewisham secondary schools the schools of choice. We will work to provide a two form of entry (60 places) expansion of Addey and Stanhope School. We will also work proactively with the Education Funding Agency, Department for Education, Regional Schools Commissioner and potential sponsors to provide up to a further eleven forms of entry (330 places) of new provision by 2022 via free schools.
- 5.8 **Early Years Foundation Stage** – While sufficient capacity is already within the system, the council will work with providers to ensure that the system is flexible enough to help meet the needs of parents and the challenge of the 30 hour offer, and to place nursery classes in schools and nursery schools on a sustainable footing.
- 5.9 **Special Education Needs and Disability** – The council will work up business cases for capital investment to expand both Watergate and Greenvale School based upon an invest-to-save model. Additionally the council will pursue the Department for Education's 'commissioned' Special Education Needs and Disability free school opportunity to redevelop the old Brent Knoll site as a new 120 place school for 11-19 year olds that have been identified as having either Autism Spectrum Disorder and/or Social, Emotional and Mental Health needs.

6. Free School Update

What are free schools?

- 6.1 Free schools are the government's vehicle for delivering the new schools needed across the country. They are non-profit making, independent, state funded schools which are free to attend but are not maintained by a local authority. As such they are expected to offer a broad and balanced curriculum, are subject to the same Ofsted inspections as all other maintained schools and are expected to comply with standard performance measures. They also have to follow the School Admissions Code.
- 6.2 When the programme was first announced it was promoted as a policy initiative to enhance choice of schools, however over time it has become the government's method of addressing need for places.
- 6.3 Any new school built by the local authority must be opened under the free school presumption, whereby the local authority must run a competition for sponsors to run that school, the resultant schools will be operated in the same way as an academy. The Secretary of State is the decision maker as to which sponsor is successful, however they will take into account local authorities' recommendations.
- 6.4 Alternatively, sponsors can apply to the Regional Schools Commissioner to set up a free school, provided they can demonstrate the need and the ability to deliver. (There are opportunities to do this twice per year through to 2020, in March and September). In this instance, the Education Funding Agency will be tasked with finding a site and building the school before it is then handed over to the sponsor. Again, the Secretary of State is the decision maker as to which sponsor is successful. To summarise therefore, all new schools are free schools.

How many have been established?

- 6.5 The first free schools opened in 2010. Since then a total of 429 have opened, and there are a further 239 that have been pre-approved (whereby the Secretary of State has approved them, but the EFA have not yet completed the site acquisition and/or capital delivery).
- 6.6 In Lewisham we have 1 free school, the Haberdashers' Aske's Hatcham Temple Grove Free School which opened in 2013. This compares with 8 in Southwark, 6 in Newham and 7 in Tower Hamlets.
- 6.7 There are also two free schools stated for opening in Lewisham. These are the Citizen School (a 4 form of entry all through school) and the Harris Lewisham Academy (a 3 form of entry primary school). To date we do not know where or when these will open as the EFA has not yet acquired any sites in the borough.

Proposed schemes and new school builds

- 6.8 Officers are aware of three free school bids (as described in 6.4 above) that were submitted to the Regional Schools Commissioner in September 2016. These are;
 - An eight form of entry 'Lewisham Church of England' secondary school for 11-16 year olds

- A two form of entry 'Paxton Academy' primary school for 4-11 year olds
- A four form of entry 'New Outlook' secondary school for 11-19 year olds

6.9 We expect to hear more on these in February 2017.

6.10 In addition, officers have submitted an Expression of Interest to the Regional Schools Commissioner for a LA commissioned special free school on the site of the old Brent Knoll School. This new opportunity allows the council to have a greater say in the provision that is offered, the location and the potential sponsor. We are currently waiting to hear back from the Secretary of State as to whether our expression of interest will be taken forward – we expect to hear back before the end of February 2017.

6.11 Finally, it should be noted that currently there are plans to build a new school within Lewisham as part of the Section 106 conditions for the Convoys Wharf residential development. Dependent on when this comes to fruition it is likely that the council will either have to run a presumption competition (as in 6.3 above) or that the Education Funding Agency will come to an arrangement to acquire the site/building direct from the developer.

6.12 Local authorities are finding that free schools are not without cost to them as the EFA typically only pays for works to the border of the site and expects the local authority to pick up the cost of some planning conditions.

6.13 A further concern is that schools of an unconventional configuration (e.g. small secondary schools) may prove unviable in terms of revenue funding.

7. Financial Implications

7.1 The main source of finance for the school places programme is the Basic Need grant awarded by the Department for Education. The council has been allocated Basic Need grant of £10.6m for 2017/18 and £14.1m for 2018/19.

7.2 The council is currently awaiting an announcement from central government with regards future Basic Need grant from 2019 onwards, and also the recently announced SEND Capital grant. This is expected in January 2017.

7.3 The council has also been able to apply significant sums secured through section 106 agreements towards school expansion schemes. There are currently section 106 contributions in excess of £4m that are financing school expansion schemes. The Council's Community Infrastructure Levy (CIL), for which charging commenced from 1st April 2015, may also provide a future source of finance.

7.4 Unless other sources of funding such as contributions from schools are available (increasingly unlikely), any expenditure which exceeds the available amounts of Basic Need grant and section 106/CIL contributions would have to be financed from the Council's capital reserves, usable capital receipts or from prudential borrowing.

7.5 All on-going revenue costs of running enlarged schools and free schools will be met from the resources of the Dedicated Schools Grant.

8. Legal Implications

- 8.1 The Human Rights Act 1998 safeguards the rights of children in the Borough to educational provision, which the Council is empowered to provide in accordance with its duties under domestic legislation.
- 8.2 Section 14 of the Education Act 1996 obliges each local authority to ensure that there are sufficient primary and secondary school places available for its area i.e. the London Borough of Lewisham, although there is no requirement that those places should be exclusively in the area. The Authority is not itself obliged to provide all the schools required, but to secure that they are available.
- 8.3 In exercising its responsibilities under section 14 of the Education Act 1996 a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.
- 8.4 The Education and Inspections Act 2006 places requirements on Authorities to make their significant strategic decisions concerning the number and variety of school places in their localities against two overriding criteria:
 - to secure schools likely to maximise student potential and achievement;
 - to secure diversity and choice in the range of school places on offer.

Equalities Legislation

- 8.5 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.6 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 8.7 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 8.4 above.
- 8.8 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 8.9 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The

Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

8.10 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

8.11 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

9. Crime and Disorder Implications

9.1 There are no crime and disorder implications.

10. Equalities Implications

10.1 This report supports the delivery of the Council's Equalities programme by ensuring that all children whose parents /carers require a place in a Lewisham school will be able to access one.

11 Environmental Implications

11.1 Every effort will be made to enhance rather than detract from school, and other, environments in the solutions to providing additional sufficient places.

12. Background documents

Appendix A – DRAFT Place Planning Strategy 2017-2022

Appendix B – Consultation Questions

Appendix 1 – Primary Strategy for Change 2008-2017

Appendix 2 – Tables

Appendix 3 – [Lewisham Education Commission Report](#) (link to website)

Appendix 4i – Governance Structure

Appendix 4ii – CYP Strategic Asset Board, Terms of Reference

Appendix 5 – Free School Presumption

Appendix 6 – Lewisham Place Planning Localities (PPL) Map

If there are any queries on this report, please contact Matt Henaughan, Service Manager, School Place Planning on 0208 314 8034