

Item No. 17.	Classification: Open	Date: 8 December 2015	Meeting Name: Cabinet
Report title:		The Charter School East Dulwich Development Strategy	
Ward(s) or groups affected:		South Camberwell, Village, East Dulwich	
Cabinet Member:		Councillor Victoria Mills, Children and Schools	

FOREWORD - COUNCILOR VICTORIA MILLS, CABINET MEMBER FOR CHILDREN AND SCHOOLS

This report marks a significant next step in securing a great new secondary school for East Dulwich and the surrounding communities.

A widely supported and well organised community campaign, coupled with a proposal from an outstanding local secondary school has already seen permission for the school secured. It has also unlocked the Dulwich Hospital site ensuring that this community asset is used to its full potential.

We are proud that Southwark Council has been part of the partnership supporting the school from the start and that now we will bring our expertise in project management, regeneration and school building to ensure we get the high quality building our students and wider community deserve. Our commitment is underlined not just by the time and dedication of skilled council staff but the recommendation that the council contributes £5million to the project to cover known additional costs and to secure a high standard of design.

The final piece of the jigsaw is a collaborative relationship with the Education Funding Agency which has secured the former Lewisham and Southwark College Camberwell site for a much needed new special school and which for the next two academic years will be a temporary home to The Charter School East Dulwich. This secures the school's future for a September 2016 opening and will mean that it will open in better quality temporary accommodation with more flexibility and finance for the permanent school building.

RECOMMENDATIONS

1. That cabinet approve the council entering into an agreement with the Education Funding Agency (EFA) for the council to oversee and manage the procurement and construction delivery of the new The Charter School East Dulwich (TCSED) which is to be developed on the site of the existing Dulwich Community Hospital (East Dulwich Grove, London SE22 8PT) on the terms described in paragraphs 13-19. The approval for procurement of services and works for TCSED project will take place under a separate gateway report.
2. That cabinet approve the use of £5,000,000 from within the council's existing capital programme for the TCSED project as described in paragraph 35.
3. That cabinet agree to delegate authority to the Director of Regeneration to formally approve the risk transfer agreement as described in paragraph 19.

BACKGROUND INFORMATION

4. In March 2015, the Department for Education (DfE) approved The Charter School Educational Trust's application to open a new secondary school in East Dulwich. TCSED will be a co-educational, non-selective, non-faith, inclusive secondary school for pupils aged 11 – 18 and deliver quality education for young people. When the Trust consulted on its proposal there was significant public interest and support for the school from majority of parents and the community:
 - 98% agreed that there is a need for a new secondary school in the East Dulwich area.
 - 97% agreed with the proposed location at the Dulwich Community Hospital (East Dulwich Grove, London SE22 8PT).
 - 98% agreed The Charter School Educational Trust should enter into a Funding Agreement (Master Agreement and Supplemental Funding Agreement) with the Secretary of State to open and run TCSED.
5. The EFA purchased 5.21 hectares of the Dulwich Community Hospital site from the NHS, which will be leased to TCSED on a peppercorn rent for 125 years. The sale agreement with NHS will see the site area released to the EFA in three parcels for the development:
 - **Parcels 1 and 2** (the north east and south west parcels) were released on contract completion in October 2015.
 - **Parcel 3** is expected to be released in April 2019, with a longstop date of April 2020, when the NHS clinical services are relocated to a new building on the south east corner of the site (the parcel of land being retained by NHS property services).
6. **Note that Parcel 4** is an area of the site to be retained by the NHS for the new build NHS clinical services - see diagram 1 below.



7. TCSED and Education Funding Agency (EFA) approached the council in June 2015 to work in partnership to deliver the project which led to the joint

commission of a master plan and feasibility study. Capital funding of £39.2m will be provided by the EFA.

8. As part of the due diligence for the project and to facilitate the discussions with the EFA, the council has engaged the architectural services of Architype to undertake an initial high level design study and the cost management services of Rex Proctor & Partners (RPP). RPP advised that costs on current prices costs are likely to be in the region of £42m, taking account of the site and the phasing which is summarised below.

KEY ISSUES FOR CONSIDERATION

9. Diagram 1 above indicates the parcels of land which make up the Dulwich Community Hospital site sale. Key points to note are listed below.
10. A temporary accommodation solution would need to be organised for at least two years with the possibility to extend to three years - September 2016 to September 2019.
11. The EFA has purchased the former Lewisham Southwark College Camberwell Annexe site in Southampton Way, with the intention of facilitating the provision of a new special free school in the borough to meet the local demand for SEN school places. The EFA would also fund the refurbishment of the building for SEN use. The council would support local partners to make a bid for free school provision. This will be the subject of a further report to cabinet.
12. In the meantime, the EFA are prepared to offer the building to the Charter School Educational Trust to establish TCSED on this site temporarily for the academic years 2016/17 and 2017/18. This will improve the viability of the overall project by avoiding the cost of providing temporary accommodation (estimated saving of £3m). It will also provide a better educational environment for the new school, which would not be located alongside a construction site.
13. Due to the handover of the NHS parcel 3, and the potential that the handover of could be delayed by a year, the permanent scheme will need to be procured in two stages – Phase 1 a large teaching block and the sports hall; Phase 2 a teaching block and the refurbishment of the retained chateau.
14. The EFA have recently commissioned local authorities to take on the design and procurement of existing academy and new free school projects, where there is capacity and expertise to deliver.
15. In Southwark Council there is a large regeneration team with project planning, design expertise and technical experience in education capital projects. Coordinated with the internal expertise in highways, property and planning, alongside links with the NHS, there are a number of reasons to consider delivering the project to manage delivery. External design consultants would be procured to develop the project to planning stage, before undertaking a competitive two stage tender for contractors to design and build the new teaching blocks.
16. As part of the due diligence for the project and to facilitate the discussions with the EFA, the council has engaged the architectural services of Architype Architects to undertake a design study, alongside the cost management services of Rex Proctor & Partners (RPP) who have experience of large school projects. RPP have advised that costs are likely to be in the region of £42m taking

account of the site conditions, demolition, programme, phasing requirements and the need to achieve a good quality design in keeping with the local area.

17. The EFA's current budget is £39.2m. Although they are not prepared to increase that budget, they are prepared to enter into risk transfer agreement so that the council would not be exposed financially to circumstances which would be beyond its control and to cost risks which the EFA would otherwise need to accommodate if the project was delivered by an external consultant.
18. Under this agreement the council would make a capped contribution on the understanding that the EFA meet other costs which would be outside the council's control, including site and ground conditions.
19. The risk transfer agreement with the EFA would cover the following areas:
 - (i) The council's contribution to the project would be capped to a maximum of £5m to cover for known additional costs at this stage and with a view to securing a good standard of design.
 - (ii) Asbestos –The EFA have an agreement with the NHS, to recover the money from the sale to NHS. The council would not liable for any asbestos above that in the cost plan.
 - (iii) Site contamination – whilst there are surveys of the site, there could be unknown ground issues below the existing buildings which will only materialise when the buildings on parcel 2 and 3 are demolished. The EFA would meet those costs if they were not identified in surveys at land purchase.
 - (iv) Utilities – there is survey data on the utilities but there could be range of other utilities which have not either been identified which could impact on the design solution and consequentially lead to extra costs to the scheme. The EFA have indicated that they would meet those costs if they could not be mitigated in the design solution.
 - (v) Network Rail – There are potential risks and costs that could arise from demands that Network Rail might make. For example major repairs to the brick boundary wall. The EFA have indicated that they would meet those costs if case can be proven that they could not be mitigated in design and construction.
 - (vi) Third party rights – cost which may arise from third party rights and rights of way across the site. These are being investigated as part of the review of the agreement of sale and title report. The EFA would meet these costs if they could not be avoided.
 - (vii) Cost increases arising from delays by the NHS – although every effort will be made to coordinate the two developments, with a high level input from the council and NHS, the phasing of the project is unusual and the council is looking for financial protection from cost increases should the scheme be delayed in phase 3 due to the NHS being unable to meet their obligations to release the remainder of the site in the sale agreement to the EFA.
 - (viii) Chateau – the main chateau building located at the entrance of the hospital building (see diagram 1) is required to be kept as part of the scheme. Experience with Victorian hospital refurbishments indicates that there may

be unknown structural issues which may not be identified until the building is opened up for renovation. The EFA have indicated that they would accept the financial risk associated with these potential costs should they arise during contracted works and for which there is no reasonable provision in the overall cost envelope or no other mitigating means to avoid reasonable additional costs.

20. The above covers the main risks on the project and officers will need to work within the approved budget. In the event that issues arise and budget pressures are placed on the scheme a process of value engineering will be required before any further funds are requested.
21. As part of the due diligence for the project, the council has undertaken an initial high level design study. The design study has indicated that the most likely uses of the TCSED based on the parcels set out in Diagram 1 are as follows:
 - **Parcels 1** would accommodate a teaching block which could be constructed as part of Phase 1.
 - **Parcel 2** would be most suitable to accommodate the sports hall.
 - **Parcel 3** could accommodate a new a teaching block, Multi Use Games Area (MUGA) and the retained chateau with a school hub to the rear, constructed as part of phase 2 post April 2019.
22. Diagram 2 shows the indicative master plan for the development of these three parcels.
23. TCSED will be an 8FE secondary school with a total of 1,200 children and a 480-



place sixth form (1680 children in total). The school will have a gradual intake whilst they are not in their permanent accommodation and grow as follows:

- i. Year 1 (September 2016 to September 2017) - 120 (4FE) pupils. Total of 120 pupils.
 - ii. Year 2 (September 2017 to September 2018) - 180 (6FE) pupils. Total of 300 pupils.
 - iii. Year 3 (September 2018 to September 2019) - 180 (6FE) pupils. Total of 480 pupils.
24. TCSED will only increase the Planned Admission Numbers (PAN) to 8FE and sixth form once the all the permanent works are completed.
Diagram 2
25. The Phase 1 construction programme is targeting completion of the sports hall and first large teaching block by no later than August 2018. However, should these dates slip for any reason the school may need to remain in temporary accommodation for a further year.

Policy implications

26. This project will support Fairer Futures Promise 1 – Value for money. The competitive tender process will ensure that the council is receiving value for money when delivering this project.
27. The EFA have stated that they believe the project represents value for money due to the educational benefits which will be offered by the school and the basic need situation in the area.
28. This project supports Fairer Futures Promise 9 – Revitalised Neighbourhoods. The project will provide high standard educational facilities which will increase number of available pupil places with the local area and support future investment and regeneration in the local area.
29. There are also associated benefits for the council through entering into partnership with the EFA for the retention of the former Lewisham Southwark College site in Southampton Way for education purposes, both in terms of the viability of the TCSED project and the potential to deliver a new special school funded through the free school programme. The latter will be the subject of a further report to cabinet.
30. The proposed development of the new school and health centre constitutes a major regeneration of a community asset within East Dulwich. The site is currently designated as Site 73P in the saved Southwark Plan (2007) for health, residential and community purposes. The Dulwich SPD (2013) sets out further guidance on the aspirations for the site. The council will be updating the designation for the site as part of the site allocations consultation in spring 2016.

Community impact statement

31. Southwark Council also recognise the impact that this development will have on surrounding communities in East Dulwich. The proposed development of TCSED will provide a clear link with the community with the school proposing to opening up the facilities to community use sage with particular focus on the leisure facilities of the new sports hall and multi use games area.

32. TCSED will provide the local area with an inclusive secondary school for 1680 pupils aged 11 – 18 and deliver the highest quality education for young people in its immediate diverse locality. Run by The Charter School Educational Trust, the school will build on the success of The Charter School on Red Post Hill, Dulwich.
33. It is anticipated that electronic communications are maintained with those engaged in the process to provide updates on the progress of the project.
34. The council commissioned an Equalities Impact Assessment (EQIA) in 2015 that identified the risks and social considerations associated with this project. The recommendations have been implemented in response to this report.

Resource implications

35. Indicative spend profile for the project is as follows:

	16/17	17/18	18/19	19/20	20/21	21/22	Total
Council capital	£850,000	£830,000	£830,000	£830,000	£830,000	£830,000	£5,000,000
EFA capital	£6,700,000	£6,500,000	£6,500,000	£6,500,000	£6,500,000	£6,500,000	£39,200,000
Total	£7,550,000	£7,330,000	£7,330,000	£7,330,000	£7,330,000	£7,330,000	£44,200,000

36. TCSED will not be contributing any immediate capital funding to the project. However, the trust has significantly supplemented the project development grant to support TCSED set up costs.
37. The project manager responsible for the delivery of the overall programme, under the management of the head of regeneration capital works and development who will be responsible for ensuring that the programme is adequately resourced and coordinated to deliver its objectives and procured efficiently and effectively in accordance with best practice for major projects procurement.
38. The project manager will be required to issue monthly reports to TCSED and EFA with close working partnerships with the NHS. These reports will highlight any issues and risks and enable the project to be closely monitored and managed throughout the delivery period.
39. The following diagram describes the project management delivery mechanism to deliver the project in partnership with the NHS.

The Charter School East Dulwich: Project Management groups structure

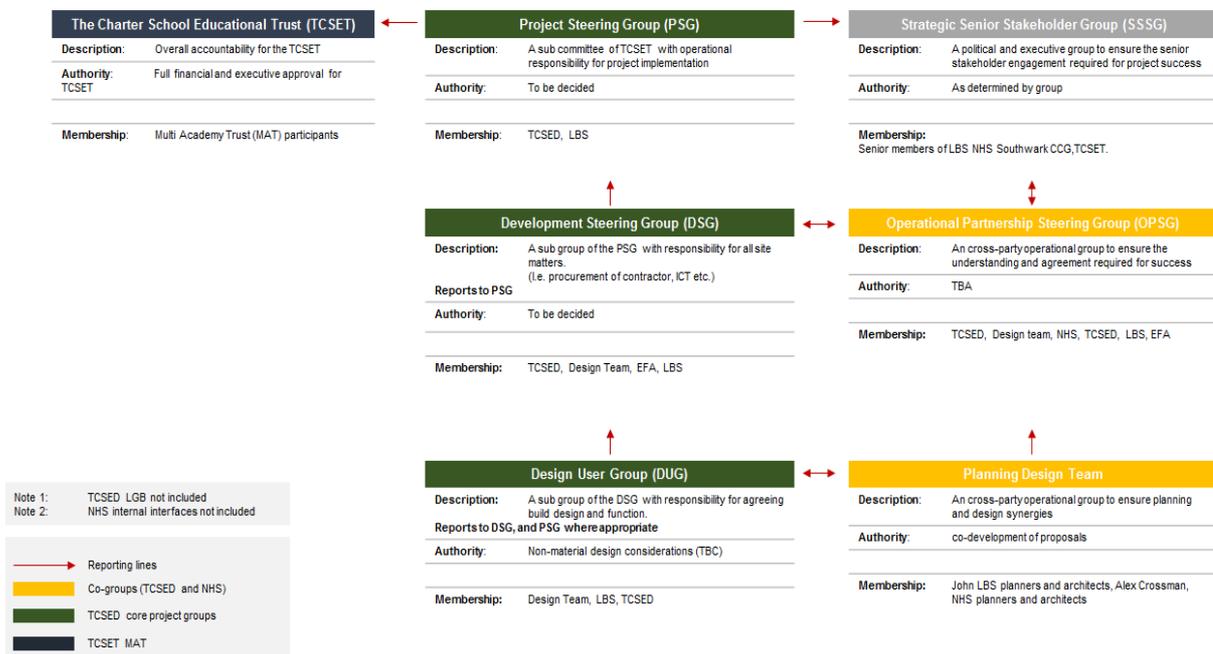


Diagram 3 showing governance chart for TCSED project.

Staffing/procurement implications

40. The council will need to include £5,000,000 of capital funds within the council's capital programme to address the shortfall in the EFA funding and to fund an improved quality of design work.
41. The EFA have committed £39,200,000 of capital funds as part of the Department for Education Free Schools' programme. This figure includes all council costs and project costs.
42. The current allocation for the construction element of the project is £35m.

Consultation

43. The Charter School Educational Trust has been engaging with the local community to share proposals on the Dulwich Community Hospital site in order for the school to be operational from September 2016. Two consultation events were held on 6 October 2015 and 17 October 2015, to 'showcase' feasibility proposals for the site. Leaflets detailing the consultation events were distributed to all residents, businesses and other organisations within a 1 mile radius of the Dulwich Community Hospital site. The Trust made direct contact with 1,871 people and organisations which included 1,600 parents and others on its subscriber list, in excess of 110 community organisations, 43 local primary schools and parent, teacher, friends associations, and 70 NHS contacts and ward councillors.
44. Further pre planning consultations are scheduled to take place in March 2016 and April 2016 to exhibit proposals to the local community and wider stakeholders. There will also be formal planning consultation taking place in August 2016.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

45. This report seek approval to the council entering into arrangements with the EFA in relation to the delivery of the new TCSED, as further detailed in paragraph [1]. As noted in paragraph [17], the agreement with the EFA will seek to contain the council's exposure to risk and paragraph [19] sets out the general requirements for the risk transfer agreement. Further advice will be required on the detailed requirements of the risk transfer agreement, and therefore approval is sought to delegate the approval of the final terms of the risk transfer agreement to the director of regeneration, to enable that advice to be obtained.
46. In considering these recommendations, the cabinet should have regard to the council's general duty of best value, and to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Paragraphs [9-25] set out the key considerations in seeking approval to these arrangements.
47. It is noted that approvals for the procurement of works and services relating to the TCSED project will be the subject of separate gateway reports, to which legal officers of the corporate team will provide advice.
48. The cabinet's attention is drawn to the public sector equality duty (PSED) under the Equality Act 2010, and when making decisions to have regard to the need to eliminate discrimination, harassment, victimisation or other prohibited conduct, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The relevant characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion, religion or belief, sex and sexual orientation. The duty also applies to marriage and civil partnership but only in relation to the elimination of discrimination. The cabinet should have regard to the community impact statement at paragraphs [31-33] setting out the consideration that has been given to equalities issues, and should refer to the equality analysis referred to in paragraph [34] which should be considered when agreeing this proposals. The council has a statutory and common law duty to consult with interested parties, and to consider that consultation as part of its decision making process. The cabinet should therefore also have regard to the consultation undertaken in relation to this project which is noted at paragraphs 43 and 44.

Strategic Director of Finance and Governance

49. The strategic director of finance and governance notes the recommendations in this report for the council to enter into an agreement with the Education Funding Agency for the council to oversee and manage the procurement and construction delivery of the new The Charter School East Dulwich.
50. Funding available from the EFA will be £39.2m, and a contribution from the council of £5m will be required. This is will be funded from within the existing capital programme budget of £12m shown on S-0050-0100, described as "autism learning". The resource implications indicate that the council's contribution will be drawn in equal instalments over six financial years from 2016/17.

51. The strategic director notes that there will be a risk sharing agreement which is intended to limit the council's liability for any additional costs arising as the site is developed.
52. It is noted that the approvals for procurement of services and works for TCSED project will be the subject of separate reports within the council's usual governance arrangements.

Strategic Director of Children's and Adults Services

53. The Lewisham Southwark College building will provide good quality, temporary accommodation for TCSED to deliver secondary school places from, pending completion of the permanent site. TCSED has confirmed that transport resources will be provided for pupils enabling them to travel safely to and from Red Post Hill and Lewisham Southwark College building which will be supportive to families during this interim period.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Consultation Boards for TCSED	N/a	N/a
Link: http://www.chartereastdulwich.org.uk/attachments/download.asp?file=18&type=pdf		
Equality analysis The Charter School East Dulwich development strategy	London Borough of Southwark, 160 Tooley Street, London SE1 2QH	Omar Villalba Project Manager Regeneration 020 7525 7573
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5142&Ver=4		
Programme for Delivery of TCSED	London Borough of Southwark, 160 Tooley Street, London SE1 2QH	Omar Villalba Project Manager Regeneration 020 7525 7573
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5142&Ver=4		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Victoria Mills, Cabinet Member for Children and Schools	
Lead Officer	Bruce Glockling, Head of Regeneration, Capital Works & Development	
Report Author	Omar Villalba, Project Manager Regeneration.	
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Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		27 November 2015