

 <b>EXECUTIVE</b> <b>31 October 2018</b>		<b>Agenda Item No.</b>  <b>3</b>
<b>Title</b>	Kenilworth School - Loan and Land Purchase	
<b>For further information about this report please contact</b>	Andrew Jones (01926) 456830 <a href="mailto:Andrew.jones@warwickdc.gov.uk">Andrew.jones@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	Kenilworth wards	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No (There is a private and confidential report and Appendices 1,2 and 3 are confidential and commercially sensitive.)	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Executive 31 <sup>st</sup> May 2018	
<b>Background Papers</b>	See above	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	Yes
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	Ref
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	No
Not applicable.	

<b>Officer/Councillor Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive	18/10/18	Chris Elliott
CMT	18/10/18	Chris Elliott, Bill Hunt, Andrew Jones
Section 151 Officer	18/10/18	Mike Snow
Monitoring Officer	19/09/18	Author
Heads of Service	18/10/18	Dave Barber, Lisa Barker
Warwickshire County Council Legal Services	20/09/18	Peter Endall
Portfolio Holder(s)	15/10/18	Councillors Mobbs, Coker, Rhead & Phillips
<b>Consultation &amp; Community Engagement</b>		
<b>Final Decision?</b>	Yes	

## **1 SUMMARY**

- 1.1 The report asks Members to agree a loan to Kenilworth School and the purchase of land at Rouncil Lane in Kenilworth thereby helping to facilitate the relocation of Kenilworth School and Sixth Form and providing an opportunity for the Council to develop a house-building programme.

## **2 RECOMMENDATIONS**

- 2.1 That Executive notes the latest position as it relates to Kenilworth School and Sixth Form's (hereafter referred to as the School) decision to relocate to land at South Crest Farm, Kenilworth which has been allocated in the Warwick District Local Plan for educational uses.
- 2.2 That Executive notes the latest position in respect of the negotiations and discussions between officers and the School in respect of advancing a loan and purchasing the School land at Rouncil Lane.
- 2.3 That Executive agrees the Heads of Terms for the purchase of the School land at Rouncil Lane at Appendix 2 to the private & confidential report on this matter having noted both the Council's valuation advice at Appendix 1 and offer price at paragraph 3.2 of that report and recommends to Council that the release of the necessary funding from the Housing Revenue Account Capital Investment Reserve is agreed.
- 2.4 That, subject to approval of recommendation 2.3, Executive notes the draft Loan Agreement at Appendix 3 to private & confidential Agenda item 16, agrees that a final document is agreed by the Deputy Chief Executive (AJ) and Head of Finance in consultation with the Leader and recommends to Council that the precise source of funding of the loan is agreed by the Head of Finance and included within the updated Capital Budget.

## **3 REASONS FOR THE RECOMMENDATIONS**

- 3.1 Since Executive considered a report on this matter at its meeting of 31<sup>st</sup> May 2018 not all elements of the relocation project have gone as smoothly as would have been hoped: Whereas parts of the planning application work have been able to progress and Warwick District Council officers have developed a sound case for the purchase of the School's land at Rouncil Lane and the advancing of a loan to enable the School to continue with its planning application preparation, the landowner at South Crest Farm has not agreed with the School a sale price for their land and so the purchase has not been completed. Consequently, officers have had to instruct Counsel to provide Compulsory Purchase Order (CPO) advice in the hope of convincing the landowner to reach an agreement.
- 3.2 Officers and the landowner met at the Council's offices late last month, accompanied by relevant professional advisors, and it is hoped that a negotiated settlement can now be reached. Should this not be the case then officers will have no alternative but to begin formal CPO proceedings which will involve a report to this Committee to seek agreement to the CPO process. The consequence of this is that the School's aspiration of being on its new site for the September 2021 academic year is at risk. Although Counsel's advice is that the Council has a strong case for CPO, if the landowner decides to argue the

matter the length of the process is difficult to determine as an Inquiry will need to take place.

- 3.3 Notwithstanding the aforementioned, the School Governors' position is that they wish to push ahead with the relocation project recognising the risk but in the belief that it is not "if" relocation will take place but "when".
- 3.4 Executive has agreed that Officers could enter into negotiations with the School's representatives for the in-principle purchase of the land allocated in the Local Plan for housing at Rouncil Lane (currently the School's Sixth Form site and defined as allocation H12 in the Plan). Officers duly instructed the Council's valuers Bruton Knowles (BK) to provide officers with valuation advice in respect of the site and that advice can be seen at Appendix 1 in the private and confidential (p&c) report relating to this matter. Based on this advice an offer has been made to the School and this offer has been accepted. The amount offered is detailed in the p&c report along with a commentary to support the level of offer. Members are asked to agree the Heads of Terms (HoT) for the purchase of this land at Appendix 2 to the p&c report. It will be noted that the HoT is constructed in such a way that the option to purchase part or the entire Rouncil Lane site exists. The former option is in case the School is ultimately thwarted in its planned move; for whatever reason.
- 3.5 In tandem with negotiations around purchasing Rouncil Lane, Executive has asked officers to explore whether it would be possible to advance a loan of c£1m to the School to enable it to proceed with its planning application and assist with funding the upfront capital costs of the scheme. That work has confirmed that a loan of that amount could be secured by taking a charge on part of the land at Rouncil Lane which can be developed even with the School still in situ.
- 3.6 At Appendix A to this public report is a site plan of the School's land at Rouncil Lane. It is considered that the hatched green area of the site can be developed even if the school remains in situ. Officers have taken advice from a Highway consultant regarding access (see Appendix B to the public report) and the Council's solicitors have advised that there would be no impediment to gaining access as a consequence of land title.
- 3.7 Officers have therefore instructed the Council's solicitors to draft a Loan Agreement to which the School has agreed. The key element of the agreement from the Council's perspective is security for the loan. This will be achieved by way of a land charge on the site which will be placed on the part of the land that can be developed even with the School in situ. An option agreement will be entered into for this part of the land contemporaneously with the execution of the loan Agreement. Members are asked to note the draft Loan Agreement, as currently proposed, at Appendix 3 to the private and confidential agenda item and agree that the final document is agreed under delegated authority, in consultation with the Leader.
- 3.8 Whether the Council ultimately ends up owning the entire site with the potential for 130 dwellings (Local Plan allocation number) or just part with the potential for 70 dwellings, the Council will be afforded the opportunity to begin a house building programme. Members will be aware that a report entitled *Bid for Local Authority Housing Programme* was agreed at the August Executive which sought approval for increasing the Council's borrowing headroom to bring forward such housing schemes. Whilst the financing of the purchase(s)

proposed in this report is not dependent on the bid, a successful outcome would give the Council greater capacity to explore further opportunities.

## 4 POLICY FRAMEWORK

### 4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. Amongst other things, the FFF Strategy contains Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The Council's SAP's are the programme of work fundamental to the delivery of the strands described in the table below.

FFF Strands		
People	Services	Money
<b>External</b>		
<b>Health, Homes, Communities</b>	<b>Green, Clean, Safe</b>	<b>Infrastructure, Enterprise, Employment</b>
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
Opportunity for Council to provide social housing. Facilitates the relocation of Kenilworth School.	Opportunity to develop public spaces in line with Council's various strategies.	Relocation of an "outstanding" school. Employment opportunities through construction phase.
<b>Internal</b>		
<b>Effective Staff</b>	<b>Maintain or Improve Services</b>	<b>Firm Financial Footing over the Longer Term</b>
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
Opportunity for staff development in place-shaping.	Opportunity to provide high quality homes and services.	Effective use of Council's resources.

## **5 BUDGETARY FRAMEWORK**

- 5.1 If the Council were to acquire the Rouncil Lane site, this could be purchased as a Housing Revenue Account (HRA) site. Funding could be provided from the HRA Capital Investment Reserve (balance @ 31 March 2018 £27.5m).
- 5.2 An options appraisal for the site would need to be prepared considering how best the site should be developed. Subject to overall costs and available funding, part of the site could be developed by the HRA for Council housing, with the balance of the site sold to a developer for private market housing, so generating a return for the HRA.
- 5.3 The loan offer to aid the school with the initial scheme capital costs presents the Council with the possibility of earning a return greater than it is earning on its money market investments, or potentially on what it can borrow. The draft loan agreement is included as Appendix 3 to Confidential Agenda Item 16.

## **6 RISKS**

- 6.1 The major risk for the Council is that despite having a charge on the Rouncil Lane land following the advancing of a loan, it has limited value because a planning permission for housing is not forthcoming or there is a general decline in the housing market causing values to fall. This risk has been mitigated as far as possible by the Highway consultancy works and examination of the Utility/Service matters to be addressed. There is an outstanding matter in relation to Sport England's position on the disposal of the playfields. Until this issue has been concluded the loan agreement and option agreement in its current form will not be concluded.
- 6.2 Completion of the sale to the District Council is also dependent upon statutory consents being obtained from the Secretary of State for Education on acceptable terms. In particular, the consent will need to endorse the valuation agreed and not to substitute a higher figure (on the basis of the Secretary of State's usual policy that the full equity value of the land ought to be extracted and recycled for the benefit of education). This matter has been mitigated by the work undertaken on valuations to secure a Housing Infrastructure Fund (HIF) allocation from Central Government.
- 6.3 The School has requested the Council's legal advisors to seek the necessary consents on its behalf. While success cannot be guaranteed, it is anticipated that the relocation project will find political favour at the highest levels in Government and accordingly that approval should be forthcoming in due course. Again, the fact that HIF funding has been secured indicates that Central Government supports the scheme.

## **7 ALTERNATIVE OPTIONS CONSIDERED**

- 7.1 The Council could decide to play a less active role in this project, however, the likely consequence of this is that the relocation of the School is delayed and the Council misses the opportunity to develop a Council house-building programme. For those reasons the option was rejected.