

 <b>EXECUTIVE</b> <b>18 December 2019</b>		<b>Agenda Item No.</b> <b>7</b>
<b>Title</b>	Relocation of Kenilworth School – playing pitch strategy and land purchase	
<b>For further information about this report please contact</b>	Andrew Cornfoot <a href="mailto:Andrew.cornfoot@warwickdc.gov.uk">Andrew.cornfoot@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	Kenilworth Park Hill Kenilworth St. John's Kenilworth Abbey and Arden	
<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Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?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	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Relocation of Kenilworth School, Executive report 21 <sup>st</sup> August 2019, Item 8	
<b>Background Papers</b>	Warwick District Local Plan 2011-2029 Land East of Kenilworth Development Brief 2019	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes - 1088
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	Yes
The Local Plan and the policies within it has been subject to equalities impact assessment.	

<b>Officer/Councillor Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive	13/11/2019	Chris Elliott
CMT	13/11/2019	Chris Elliott, Bill Hunt, Andrew Jones
Section 151 Officer	13/11/2019	Mike Snow
Monitoring Officer	13/11/2019	Andrew Jones
Head of Service	13/11/2019	Dave Barber
Portfolio Holder(s)	18/11/2019	Councillor John Cooke (Development Services)
<b>Consultation &amp; Community Engagement</b>		
The school undertook a public consultation prior to the submission of their planning application for their relocation and a statutory consultation was carried out as part of the planning application process for the planning app in 2019.		
<b>Final Decision?</b>	Yes	

## **1 SUMMARY**

- 1.1 Kenilworth Multi-Academy Trust (KMAT) propose to relocate Kenilworth School from two existing sites onto a new site at Southcrest Farm, Glasshouse Lane. The quantum of playing pitch area on the new site will be less than the existing sites and therefore a strategy to ensure no net loss of playing pitches has been developed between Warwick District Council (WDC) and KMAT. This report outlines the strategy and the implications to WDC in delivering the strategy and asks Members to support the approach set out.
- 1.2 The Council's partnership working with KMAT has resulted in an opportunity for WDC to secure an exclusivity option to purchase the existing school site at Leyes Lane to deliver housing. This report notes that work has commenced to prepare an offer for the purchase of this site.

## **2 RECOMMENDATIONS**

- 2.1 That Executive notes the latest position and background relating to the Kenilworth School relocation.
- 2.2 That Executive agrees to the strategy outlined in this report to ensure that there is no net loss of playing pitches resulting from the school's relocation.
- 2.3 That, should recommendation 2.2 be agreed, Executive delegates the details of the legal agreement to be entered into with KMAT to the Deputy Chief Executive (AJ) and Section 151 Officer in consultation with the Portfolio Holder for Development Services and authorises expenditure of up to £3,000 in legal costs to draft and complete the necessary legal agreement to formalise the agreed strategy to be included within the February 2020 Budget report.
- 2.4 That Executive agrees to officers entering into detailed negotiations with University of Warwick (UoW) relating to the potential delivery of playing pitches on their land and authorises expenditure of up to £20,000 to undertake technical work required to support a planning application, noting that this expenditure will be recouped in due course, and agrees to officers submitting a planning application for proposed new playing pitches at land north of Cryfield Grange Road, with the budget included within the February 2020 Budget report.
- 2.5 That Executive notes that valuation and survey work has commenced to prepare an offer for the purchase of the school's Leyes Lane site.

## **3 REASONS FOR THE RECOMMENDATIONS**

- 3.1 Recommendation 2.1
- 3.2 Following a public consultation KMAT submitted a planning application for a new school to accommodate around 2,200 pupils at Southcrest Farm in April 2019.
- 3.3 The planning application, reference W/19/0655, was considered at Planning Committee on 10<sup>th</sup> September 2019 where Members made a resolution to grant planning permission subject to the completion of a Section 106 legal agreement. The legal agreement has been drafted and is close to being signed by the required parties.
- 3.4 KMAT has agreed terms and exchanged contracts with the landowners for the purchase of the Southcrest Farm site. It has also agreed terms and exchanged

contracts with WDC for the sale of the school's Rouncil Lane site. Completion of these land transactions is subject to obtaining the statutory consent of the Department for Education (DfE) relating to the disposal of the two existing sites owned by KMAT and purchase of the Southcrest Farm site. WDC Officers, legal advisors and representatives of KMAT are working with the DfE to provide all of the information they require to make a decision.

3.5 The existing sites will be developed for housing with the land receipts being re-invested into the new school project. KMAT will shortly embark on an open market disposal of the Leyes Lane site. However, owing to the excellent working relationship between WDC and KMAT on the relocation project, KMAT has agreed in principle to offer the Council an exclusivity option to purchase the site, should WDC be able to meet the value requirements of the school to enable their relocation.

3.6 Further detail relating to the background of the school relocation project is contained within the 'Background' section of this report.

### 3.7 Recommendation 2.2

3.8 The quantum of playing fields on the existing school sites totals 78,046 m<sup>2</sup> (Leyes Lane: 47,220 m<sup>2</sup>; Rouncil Lane: 30,826 m<sup>2</sup>) and the proposed playing field area on the new school site is 57,132 m<sup>2</sup> resulting in a net reduction in playing field area of 20,914 m<sup>2</sup>. Whilst there is an overall loss in playing pitches it is important to note that the school have prepared their planning application to meet the playing pitch provision required for a 2,200 pupil school.

3.9 Sport England has not objected to the planning application on the grounds of a loss of existing playing field area because at the time of the planning application submission, the existing playing fields on the Rouncil Lane and Leyes Lane sites remain in existence and available for use as playing fields. However, should applications come forward for those sites without an approach that will ensure there is no overall loss in playing pitch provision, Sport England would object.

3.10 KMAT set out their approach to how the longer term deficit in playing fields will be addressed in their Sport England Statement accompanying their planning application:

*"Development proposals and each future planning application for the respective sites will need to consider the relevant Sport England policy including having regard to any quantitative loss of playing field area".*

*"It is assumed that the future development of the existing school sites will enable additional playing field provision and/or a contribution towards appropriate sports provision for the town to meet the requirements of the relevant playing pitch strategy and Sport England policy. Furthermore, although the existing playing pitch area is greater than the proposed playing pitch area, the quality of new playing pitch will allow greater use by the community".*

3.11 Unfortunately the strategy set out in the planning application has significant potential ramifications for the development of both Leyes Lane and Rouncil Lane as the issue of the loss of playing pitches will impact upon planning applications for residential development on those sites. This issue could potentially also impact upon the ability of KMAT to receive the necessary land receipts for their existing sites to fund the construction of the new school.

- 3.12 WDC is keen to ensure that a deliverable strategy to address this matter is devised and agreed with KMAT at this stage to avoid difficulties at a later date.
- 3.13 The area of deficit amounts to 2.09 hectares, a little more than the equivalent of 2 adult-sized football pitches and an Under 15/16 pitch.
- 3.14 Sport England has confirmed that they cannot accept any loss of playing fields but would allow the re-provision of pitches in suitable locations off-site as a potential alternative to retaining pitches on-site.
- 3.15 WDC Officers have appraised options that could potentially address any loss in playing pitch area. The options include:
- Option 1: Retention of pitches on site at Leyes Lane and Rouncil Lane
  - Option 2: Off-site re-provision at Castle Farm as part of the Kenilworth Wardens relocation
  - Option 3: Off-site re-provision at Warwick University on land north of Cryfield Grange Road (see Appendix 1).
- 3.16 The appraisal concludes that Option 1 is undesirable given the many cons and risks identified and lack of positives. It is however considered that both Options 2 and 3 are realistic and deliverable although there remain risks with both.
- 3.17 There is more than a reasonable likelihood of being able to deliver the playing pitches required on either the Castle Farm site or Warwick University site or a combination of both. Given the lack of other suitable sites and the disbenefits of retaining pitches on the existing sites, it is considered that both Options 2 and 3 could be pursued. Option 3 however is the preferred option as it would afford greater certainty of the timely delivery of new pitches and give the Council more control in this matter thus minimising risk to the school relocation project and the delivery of Local Plan housing allocations.
- 3.18 There is a cost associated with the delivery of pitches and Sport England cost guidance currently estimates this at £282,432. In addition to the laying out of pitches there are costs associated with the preparation and submission of a planning application.
- 3.19 WDC and KMAT have agreed that KMAT will provide a contribution to WDC for the value of the pitch construction works linked to the grant of planning permission and judicial review period for the redevelopment of the Leyes Lane site. The contribution would also allow include £20,000 to support the preparation of a planning application (which would be required for Option 3 but not necessarily Option 2). It is proposed by WDC that the £20,000 will be payable by KMAT regardless of whether the school ultimately are successful in relocating to Southcrest Farm.
- 3.20 The contribution, which will be subject to relevant Sport England cost guidance and indexation, would amount to £302,432 based on today's costs and would then allow WDC to support a suitable scheme for the creation of playing fields on alternative sites.
- 3.21 WDC officers have engaged positively with Warwick University staff on the potential for delivery of pitches on land north of Cryfield Grange Road and both parties are in principle supportive of the delivery of pitches on the land. This engagement will continue, hopefully resulting in a formal agreement between both parties.

- 3.22 The delivery of additional pitches at Warwick University will also be helpful in implementing the Council's own Playing Pitch Strategy (PPS) which identifies that there is limited spare capacity across the district with many sites at or approaching capacity, and there is evidence of overplay at many sites in the district. The PPS identifies opportunities to meet these pressures and overall shortfall, and a key element of this mitigation is the securing of community use on existing or new facilities. The delivery of pitches at Warwick University is therefore something that officers would be interested in pursuing regardless of the more pressing need arising from the Kenilworth School relocation plans.
- 3.23 Recommendations 2.3 and 2.4
- 3.24 In order to formalise the approach set out in the reasons for Recommendation 2.2 a legal agreement to secure funding to deliver new playing pitches is necessary and will require drafting by the Council's solicitors.
- 3.25 Initial discussion has taken place with Warwick University about the delivery of additional playing pitches at Cryfield but at present the details of any agreement are unknown as more detailed negotiations are required. Authorisation to enter into more detailed negotiations will provide clarity on the nature of any agreement and subsequently an additional report will be brought back to Executive before any formal agreement is entered into so that Executive can authorise the terms of the agreement and any on-going expenditure that may arise from it.
- 3.26 The £20,000 forward funding is sought to minimise risk to the delivery of the school relocation and to purchasers of the existing school sites (WDC in the case of Rouncil Lane and potentially also Leyes Lane). If there is uncertainty on the likely delivery of replacement pitches at the time of the Leyes Lane planning application, there is a risk that the school will not secure the land receipt that they require to fund the relocation and/or there is a risk to delivering the number of houses anticipated to be delivered on the site. Forward funding the work to prepare a planning application will enable the Council to have greater control on this matter, thus protecting our own financial interests as well as providing greater control on delivering allocations within our Local Plan. It is therefore necessary to have funding in place to de-risk the project for all parties.
- 3.27 Recommendation 2.5
- 3.28 The Council has worked closely with KMAT to assist the school with their relocation project. This includes the availability of significant loan facilities, the mutually beneficial agreement for the Council's purchase of the school's Rouncil Lane site and also the Council's successful bid for £9.6m of funding from the government's Housing Infrastructure Fund to support the school relocation and associated housing delivery.
- 3.29 At the 31<sup>st</sup> May 2018 meeting, Executive agreed (Agenda Item 7, recommendation 2.3) that officers 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 possibly Leyes Lane (currently the School's main site). Subsequently, Executive has approved the purchase of the Rouncil Lane site at its 6<sup>th</sup> June 2019 meeting (Agenda Item 5).

- 3.30 At the 21<sup>st</sup> August 2019 meeting (Agenda Item 8, recommendation 2.2), Executive noted that the School is prepared to enter into a contract with WDC for the sale of its main school site at Leyes Lane. Owing to the successful working relationship KMAT has agreed in principle to enter into an exclusivity agreement with WDC for the Council to purchase the larger of the two existing school sites at Leyes Lane. Any purchase of the site would have to reflect market value.
- 3.31 The unique opportunity to purchase this site will assist in the Council's long held ambition of delivering an extensive house-building programme. In Kenilworth alone, the Council are actively considering the purchase of three housing sites (one in part) allocated in the Local Plan – Rouncil Lane school site; Leyes Lane school site; and Kenilworth Wardens Cricket club site. These sites individually and more so collectively offer the Council a rare and unique opportunity to play a significant part in the type of housing delivered within the District. The Leyes Lane site is the largest of these sites and therefore arguably has the greatest potential for the Council to deliver on a range of objectives and perhaps deliver something 'better' or 'different' than the norm.
- 3.32 KMAT is expected to commence marketing on its Leyes Lane site at the end of November 2019 and expect to receive bids towards the end of January 2019. Therefore, officers have commenced valuation and site capacity work in order for the Council to be in a position to make an informed offer for the site in due course.

#### **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.

<b>FFF Strands</b>		
<b>People</b>	<b>Services</b>	<b>Money</b>
<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 leisure 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 towns Improved performance/productivity of local economy Increased employment and income levels
<b>Impacts of Proposal</b>		

Opportunity for Council to support the delivery of Local Plan allocations and provide social housing. Help facilitate the delivery of new playing pitches Helps facilitate the relocation of Kenilworth School	Opportunity to develop public spaces in line with the Council's various strategies	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
<b>Impacts of Proposal</b>		
Opportunity for staff development in place-shaping	Opportunity to provide high quality homes and services	Effective use of Council's resources

## 4.2 Supporting Strategies

Each strand of the FFF Strategy has several supporting strategies. The Local Plan is one of the key strategies, cutting across many of the FFF strands. The successful relocation of Kenilworth School to Southcrest Farm will enable the delivery of education and housing allocations within the Plan. The school's relocation will support the delivery of housing targets, the delivery of affordable housing and enhanced education facilities for residents. The delivery of new playing pitches will adhere to the Council's Playing Pitch Strategy. The Land East of Kenilworth Development Brief SPD provides guidance for the delivery of development on allocations in east Kenilworth and the relocation of Kenilworth School to this site is critical to the comprehensive development of the area.

## 4.3 Changes to Existing Policies

The delivery of playing pitches to ensure that there is no loss of playing field area will be necessary to ensure that Local Plan housing allocations at Rouncil Lane and Leyes Lane can be delivered with anticipated dwelling numbers realised. It will also remove an obstacle that could severely impact upon the finances of the school relocation project. Therefore, it is considered that the recommendations 2.2 and 2.3 support the policies adopted within the Local Plan and adhere to national and local policies rather than changing them.

#### **4.4 Impact Assessments**

The Local Plan has been subject to an equalities impact assessment which considered the implications of consultations on equalities.

### **5 BUDGETARY FRAMEWORK**

- 5.1 The legal costs of preparing and negotiating an agreement with KMAT formalising the strategy set out in this report is estimated to be no more than £3,000. Further costs of £20,000 are proposed to undertake technical work required to support a planning application in 2020/21, although this will be recouped in due course. These additional sums are proposed to be included within the Budget for 2020/21 to be agreed by Executive in February 2020.
- 5.2 Further costs will be incurred relating to the agreement that WDC may enter into with University of Warwick including potentially legal and management/maintenance costs.
- 5.3 At its meeting of 30<sup>th</sup> August 2018, Executive approved the allocation of an annual budget of up to £60,000 for consultancy services to provide support for the Council's housing programme. This was funded from the Capital Investment Reserve. There remains enough in the budget to cover the masterplanning and valuation work relating to the Leyes Lane site.
- 5.4 More significant expenditure will be required should the Council purchase the Leyes Lane site and this will be considered in detail in any further report to Executive about purchasing the land.

### **6 RISKS**

- 6.1 The playing pitch issue, if not satisfactorily resolved, has the potential to significantly impact upon Kenilworth School's ability to fund their relocation as they would be unlikely to achieve the necessary land receipt for the sale of their existing land. This would then impact upon the delivery of the comprehensive development of Land East of Kenilworth and also the delivery of Local Plan housing allocations. This is of concern to the Council for two primary reasons: 1. The Council may be unable to deliver on housing and education allocations in the Local Plan; and 2. The Council has agreed significant loan facilities to the school, has agreed to purchase Rouncil Lane and is considering the purchase of Leyes Lane and therefore any issue that risks the delivery of housing and the school relocation could have major financial implications to the authority.
- 6.2 There is a risk that the Council spend the £20k and an unable to recoup this from the school. However, there will be a legal agreement in place prior to any expenditure that will provide the Council with legal recourse to ensure the money is returned.
- 6.3 A known risk to the delivery of Option 3 is that the high level route identified for the proposed A46 link road will pass through the south-western corner of the field in which the pitches are proposed to be delivered. It is considered that this risk is minimal because the indicative route is at the opposite corner of the site to where the pitches may be delivered (which is within the north-eastern area of the field). Furthermore, WDC is a key stakeholder and part of the steering group for the delivery of the link road and therefore have some influence over the precise route of the road.



## **7 ALTERNATIVE OPTIONS CONSIDERED**

- 7.1 That Executive could choose not to agree to the strategy set out in this report relating to the re-provision of playing pitches on alternative sites and require officers to find an alternative strategy or not agree to adopt the strategy and not seek to develop an alternative strategy.
- 7.2 That Executive could decide that they do not wish to pursue option 3 as it would mean forward funding £20k to prepare a planning application. Option 2 is also considered to be deliverable but the pitches are unlikely to be delivered as quickly as pitches at Cryfield and as such there are more risks with this approach.
- 7.3 Retention of playing pitches on either Rouncil Lane or Leyes Lane will result in significant risk to the delivery of the school's relocation, as identified in the 'Risks' section and therefore a strategy which is acceptable to both WDC and KMAT will minimise risk. The options being considered are considered to be the only realistic and deliverable options to addressing the shortfall.
- 7.4 KMAT could seek to re-negotiate a land purchase of more land at Southcrest Farm. However, this is unlikely to be successful and will have a financial impact upon the project. The Council would have the ability to utilise its compulsory purchase powers but the length of time and costs associated with this would put the relocation scheme at risk and therefore also the delivery of housing.

## **8 BACKGROUND**

- 8.1 In September 2017, WDC adopted the Warwick District Local Plan 2011-2029. Local Plan policy DS12 addresses the allocation of land for education and is reproduced below as it relates to Kenilworth:  
*"Land at Southcrest Farm, Kenilworth (ED2)...as shown on the Policies Map, is allocated for educational uses and other compatible uses (see policy HS5). This includes...the provision of a secondary school, 6th form centre and, if deemed the most appropriate location, a primary school.*  
*"In the case of Southcrest Farm the whole area of the site is unlikely to be required for educational purposes. Any land within this site that is surplus to the educational requirement is therefore allocated for housing (see Policy DS11)."*
- 8.2 Prior to the Plan's adoption and for a period of approximately four years, the School's Trustees had been working with Ove Arup & Partners Ltd (land and property specialists, hereafter referred to as Arup) on an options appraisal for the relocation of the school. It was this work and that of the Council's Planning Officers which resulted in the Local Plan land allocation at South Crest Farm for educational uses.
- 8.3 The land at South Crest Farm is in private ownership although contracts have been exchanged between KMAT and the landowners for the sale of this land to the School.
- 8.4 In the last couple of years WDC has worked closely with KMAT and Arup to help deliver the school relocation project and paragraph 3.27 summarises some of the areas in which the Council has offered its support.
- 8.5 The school relocation project is now close to being at a point where construction on the new site can commence.

- 8.6 A number of reports have been taken to Executive relating to WDC's involvement and support for the relocation of the school to Southcrest Farm. Full details providing background of the Council's involvement are set out in the Executive reports of 31<sup>st</sup> May 2018, 31<sup>st</sup> October 2018, 28<sup>th</sup> November 2018, 6<sup>th</sup> March 2019, 6<sup>th</sup> June 2019 and 21<sup>st</sup> August 2019.