

Committee/Meeting: Cabinet	Date: 9 January 2013	Classification: Unrestricted	Report No: CAB 63/123
Report of: Corporate Director Children, Schools & Families Originating officer(s) Pat Watson, Head of Building Development		Title: Bonner Primary School – Proposed Expansion Wards Affected: Mile End & Globe Town, Mile End East	

Lead Member	Cllr Oliur Rahman
Community Plan Theme	A Prosperous Community
Strategic Priority	Priority 3.1: Support lifelong learning opportunities for all

1. SUMMARY

- 1.1 This report explains the background to the proposals and informs Cabinet of the consultation that has taken place to date. The report recommends that statutory proposals are now published for the enlargement of the school. It is proposed that Bonner School should be enlarged by operating at a second site, the existing Professional Development Centre (“PDC”), English Street, E3.
- 1.2 The report explains that parts of the PDC are currently occupied by the University of Cumbria (“the University”) and by employees of the Council
- 1.3 The report requests authority for the Council to negotiate and agree with the University either the basis on which the University may share the PDC with the proposed enlarged Bonner Primary School or the relocation of the University to alternative premises elsewhere in the locality
- 1.4 This report explains that it is proposed that the services provided by the Council at the PDC, including the Schools Library Service, will be relocated to the Bethnal Green Centre, 229 Bethnal Green Road London E2.

2. DECISIONS REQUIRED

The Mayor in Cabinet is recommended to:-

- 2.1 Note the contents of this report;
- 2.2 Agree that statutory proposals should be published for the enlargement of Bonner Primary School to admit 120 pupils in each year from September 2013.

- 2.3 Authorise the Acting Corporate Director Children Schools and Families, after consulting with the Mayor and the Assistant Chief Executive (Legal Services), to negotiate and agree such terms (including, in either case, the payment of appropriate financial compensation), as will enable the proposed extension to Bonner Primary School either to share the PDC with the University until 2018, or for the University to vacate those parts of the PDC which it occupies and move into alternative premises.
- 2.4 Authorise the Acting Corporate Director Children Schools and Families, after consulting with the Mayor and the Assistant Chief Executive (Legal Services) to negotiate and agree with the University such terms for the University's continued occupation of the PDC as will enable the University to continue to enjoy its current use of the PDC in a manner which is consonant with the University's reasonable expectations including (without prejudice to the generality of the foregoing), teaching both undergraduate and post-graduate students in an environment not inimical to academic study.
- 2.5 Authorise the Acting Corporate Director Children Schools and Families after consulting the Assistant Chief Executive (Legal Services) to take such steps as are necessary in the planning and design process to ensure that the Council is enabled fully to comply with its legal obligations relating to the safeguarding of children.

3. REASONS FOR THE DECISIONS

- 3.1 Proposals have been developed to expand Bonner Primary School to assist in the LA's programme to provide primary school places to meet growing local need. Initial consultation on the proposals has been held. Cabinet is asked to consider the proposed expansion, the response to the initial consultation and the recommendation that statutory proposals for the expansion should be published. The publication of statutory proposals is required in order to implement this change to the school.
- 3.2 Although decisions were taken on the PDC in September of this year, by the Mayor in Cabinet, the University has since issued court proceedings against the Council, seeking judicial review of those decisions and alleging that they were invalid.
- 3.3 Without making any concessions as to whether there is any basis for the legal proceedings, it is considered sensible that the decisions should be considered afresh and that explicit consideration should be given to the University's concerns.

4. ALTERNATIVE OPTIONS

- 4.1 In order to meet the rising need for school places, the Council has implemented a number of school expansion projects and continues to develop further schemes to meet need. Longer term development plans for the borough include proposals for new primary schools. However, further expansion proposals are needed to keep pace with the need, so taking no action would leave the Council at risk of being unable to discharge its

statutory functions. The options for expansion have been considered having regard to the factors set out in paragraphs 6.6 to 6.24 of the report.

5. BACKGROUND

- 5.1 On 5 September 2012 the Mayor in Cabinet received a report Planning to Meet the Growth Requirement for School Places 2012 – 2022. This set out the projected need for school places and actions in place to meet the need. There is a steeply rising need for additional primary and secondary school places.
- 5.2 At the same meeting, a report on the CSF Capital Programme included recommendations for implementing some schemes to provide additional school places. This included the recommendation that the use of the Professional Development Centre (PDC) in English Street, E3 should be changed to allow use as school accommodation. Following a review of the Council's own assets that could be used to provide additional school places, the PDC has been identified as a building that can accommodate 2 forms of entry (60 places per year) of primary provision. It is in an area of the borough where there is significant pressure on school places and some families have to travel some distance to obtain a school place. It is proposed that this additional capacity should be opened by expanding Bonner School.
- 5.3 Bonner School at present admits 60 pupils in each year group (2 forms of entry) and has a maximum capacity of 420 pupils. The proposed additional capacity at the PDC will allow the school to expand to 120 places in each year group. The PDC site will be in the new Bow South school catchment so families living in the local area will have priority for admission.
- 5.4 Preliminary consultation has taken place on the proposal to expand the school at the PDC site. The feedback from this consultation supported the proposals. This report gives details of the consultation and the action that is now required to publish proposals formally.

6. BODY OF REPORT

Decision-making on school expansion proposals

- 6.1 There is a statutory framework for implementing certain alterations to schools, including enlargements. The requirements are included in the Education & Inspections Act 2006 with associated regulations. For community schools, the Local Authority ("LA") can propose certain alterations, including enlargements.
- 6.2 The prescribed process requires a two stage consultation process. The initial, pre-statutory consultation should provide information on the proposals and include a wide range of consultees. The outcome of this stage is then considered and, if the LA agrees, statutory proposals are published for a specified period (usually four weeks). After this period, the LA must consider any responses to the second consultation and decide whether or not to implement the proposals, or modify them in the light of the consultation.

- 6.3 There is a right of appeal to the Schools Adjudicator for certain parties against the LA's decision.
- 6.4 The timetable for the process is shown in paragraph 6.27, taking into account the legal requirements of the consultation and decision-making process.
- 6.5 It is open to the LA, where suitable, to propose that an expansion of a school can be implemented by creating a second site for an existing school, depending on the circumstances of the additional site under consideration, its location, and a suitable school to undertake the expansion. The LA can make such a proposal with a successful school with effective leadership and standards of achievement, not necessarily the existing school closest to the expansion site in question. This kind of expansion on a split site arrangement is being implemented elsewhere in London and would operate on a similar basis to the existing model of a federated school. This offers considerable advantages to the new provision as it can benefit from the established and experienced management and staff of an existing school. This approach is proposed for the extra capacity at the PDC.

THE NEED FOR ADDITIONAL PRIMARY SCHOOL PLACES

- 6.6 The report referred to above, Planning to Meet the Growth Requirement for School Places 2012 – 2022, included details of the need for additional primary school places and options considered to meet the need.
- 6.7 The LA keeps the need for additional school places under regular review to ensure that there are sufficient places to meet need. Annual school roll information is used to project the need for places in future years. The projection methodology takes into account the trend in school rolls, actual birth data and population projections. This information is compared with data on the capacity of existing schools and the extent of unfilled places in schools in order to assess if additional capacity has to be planned for, or if there is excess capacity which can be reduced.
- 6.8 The LA has been experiencing pressure on admission to Reception year particularly in the areas in the centre and east of the borough where new residential development has been taking place. Options continue to be developed to meet the steeply rising need for additional places.
- 6.9 The position for the current year and in the medium term is as follows:

	Places available 2012/13	
Reception	3,416	
	January 2013 projected roll	January 2015 projected roll
Reception	3,370	3,537
Total R-Y6	21,563	23,629

IDENTIFICATION OF POTENTIAL SITES FOR EXPANSION

- 6.10 The report Planning to Meet the Growth Requirement for School Places 2012 – 2022 identified the steps taken to identify options for additional capacity. In

managing the best use of its assets and the available finance, the LA has first considered which of the existing school sites could be expanded. Proposals have been or are being implemented to expand a number of primary schools and further options will continue to be investigated.

- 6.11 The option for the PDC site arose out of a review of other assets owned by the Council and consideration of their suitability for alternative use. The PDC is a former school site so can be brought back into use in a relatively straightforward manner and is in a good location to meet local need.

The PDC

- 6.12 The present use of the building is as a professional training resource principally for the schools and children's services workforce in the borough. It is a venue for professional training for teachers and other staff working in schools and other centres, and a base for some Council staff providing services to schools. It is also used for various other meetings, training sessions and conferences. The majority of these services are operated by the Council. The report to Cabinet on 5 September gave details of the proposal to relocate the Council's users to the Bethnal Green Centre and a capital estimate was adopted to fund the required works.
- 6.13 Part of the PDC is occupied by the University (formerly St Martin's College). The University provides teacher training at this site for both undergraduate and postgraduate students. Many of these students are residents of East London and do have some placements in primary schools in Tower Hamlets as part of their courses.
- 6.14 A plan of the PDC is attached as Appendix B to the report. Members are referred to the plan, on which Blocks A, B and C are shown. On 27th April 2009, the Council granted the University a lease of a small number of rooms in Block A for a term expiring in 2018 ("the Lease"). Some of the rooms granted by the Lease have since been surrendered and the University has certain shared rights in Block A.
- 6.15 The University also has a monthly oral tenancy of Block C which has an appurtenant right to choose two further rooms in Block A on a daily basis. The space occupied by the University in Block A is approximately 15% of the total area of Block A (excluding staircases, toilets, etc).
- 6.16 From early 2012, contact was made with the University for informal discussions about the proposal and whether there might be opportunities for alternative accommodation to be agreed. So far none of the proposals made by the Council of alternative sites to which the University might locate has been acceptable to the University. Consideration has been given by the Council in developing the proposal to the implications of shared use of the site by a school and other adult, non-school activities.
- 6.17 Development of the proposals for school use of the PDC, considering both the implementation of works and the operational use, has been on the basis of some sharing of accommodation with the University in the years where the school roll would not require the full capacity of the site. This takes into account the term of the Lease and the fact that the Lease cannot be terminated by the Council prior to its expiry in 2018. The works have been

planned to ensure that disruption is minimised as far as possible and to maintain safety for occupiers of the site.

- 6.18 The first phase of works and accommodation to be brought into use relates only to Block B, a detached building within the site that has been vacant for a number of years. Those works began in November 2012.
- 6.19 When classes of children occupy space in Block A, alterations to the building and management arrangements will be put in place to maintain separation of the school and University activities on separate floors of Block A. Students attending the University and members of the University's staff will not be able to have unsupervised access to children, who will always be under the supervision of teachers and other school staff. There will be no shared use of any facilities between those attending the school and those attending the University and the children will be taught on different floors of Block A from the University's students.
- 6.20 The use of the external areas of the PDC for car parking will be reduced and then removed to create external play area for the children. The children's external play area will be separately fenced and not accessible to the University's students and staff. There will be separate access to the PDC site for the school and for the University's staff and students. There will also be separate access to and egress from Block A for the children and the University's students and staff. Existing facilities (other than the Schools Library Service) used by the University's students, such as the canteen, will be re-provided for their use within the site. With these arrangements in place, the Council will be able to ensure that its duty under section 175 of the Education Act 2002 to make arrangements for ensuring that its educational functions are exercised with a view to safeguarding and promoting the welfare of children is fulfilled.
- 6.21 The Council's proposals for sharing the site with the University will be designed so as not to impact upon the University's ability to teach its students in an environment which is conducive to academic study. Although the Council proposes to relocate the Schools Library Service to the Bethnal Green Centre, arrangements will be made to enable the students and staff of the University to continue to use that service in its new location. It should be noted that the Lease in fact excludes any entitlement on the part of the University to use any library facilities. However, the Council will continue to make the facilities currently available to the University available at the Bethnal Green Centre.
- 6.22 In view of these considerations it was determined, in consultation with the Headteacher of Bonner School, that the phased approach to works and occupation of the PDC could be managed and allow effective operation of the school without any breach of the rights enjoyed by the University as occupier of part of the PDC.
- 6.23 The need to agree financial compensation to the University in the event of its vacating the site prior to the expiry of the Lease is accepted and would be subject to negotiation. The preferred option for the Council would be to reach a negotiated solution with the University for it to relocate to alternative premises with the assistance of the Council.

- 6.24 Successful implementation of the works and the school use in conjunction with continued occupation by the University will require the Council to take full account of the University's rights as tenant of parts of the site. If the University is able to establish any breach of these rights, it is recognised that circumstances may arise in which financial compensation may be appropriate, subject to negotiation. Further it appears that it will be necessary to ask the University temporarily to move within Block A to facilitate carrying out the works on the first floor and above of Block A.

Bonner School

- 6.25 Bonner School was identified as the most suitable school to operate this additional capacity. The school is a very popular with parents and is rated as 'Outstanding' by Ofsted. The government encourages such schools to expand so that more pupils can benefit from the school's teaching. The PDC site will operate as an annexe of Bonner School and be known as Bonner Mile End. The governing body of Bonner School strongly supports the proposal.
- 6.26 Having regard to all these factors, expansion at Bonner School by use of the PDC site is considered a suitable option as set out below.
- 6.27 The necessary works at the PDC site have been designed and planning approval, including listed building consent, has been obtained. The PDC site will operate as a self-contained two form entry school and the two sites will be in separate school catchment areas in order to give priority to the families local to each site. The Headteacher will manage both sites and work together with staff to ensure the best practice of Bonner School works across all classes. Bonner School does not have a nursery class at the existing site but there will be 2 nursery classes at the Mile End site.

Implementation of the Expansion

- 6.28 It is proposed that the increase should take effect from the school year 2013/14 subject to the approval of the statutory proposals. This means that the first increased year group of 120 will be admitted in September 2013. It is proposed to admit the extra pupils to the Mile End site of the school at reception year only until all year groups are full to four forms of entry.
- 6.29 As an interim measure, places will be available at the Mile End site in temporary accommodation for Reception year during the current school year as a temporary increase and pending completion of all required works.

CONSULTATION

- 6.30 The initial consultation period was from 1 October to 10 November 2012. The proposed building design was on display in the school for parents and children to see. Pupils were consulted about the proposals. A copy of the consultation paper issued is included as Appendix A. The consultation paper was sent to:
- all parents and carers of children now at Bonner School
 - all parents receiving the booklet Starting School in Tower Hamlets
 - all staff at Bonner School
 - all governors of Bonner School
 - all headteachers and chairs of governors of primary schools in Tower Hamlets
 - all councillors in Tower Hamlets

- local MPs
- the London Boroughs of Newham and Hackney
- the London Diocesan Board for Schools and the Westminster Diocese Education Service
- local trades unions

6.31 Consultation meetings were held at the school and at the PDC to discuss the proposals with parents and prospective parents local to the PDC site.

6.32 The overall response to the proposed expansion of the school was positive. The consultation paper included a form to return and the analysis of those returned is as follows:

For	Against
66	3

6.33 The response from parents who attended the meetings was positive. Parents living in the Mile End area welcomed the proposal to create additional school places in the area and recognised that Bonner is a successful school. Parents of children already at Bonner School generally supported the proposal but there were some concerns about the capacity of the Headteacher to work across both sites. The Headteacher assured parents at the meetings about the additional capacity being created to manage the extra provision.

6.34 The consultation that has been conducted complies with the requirements of the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 and the Secretary of State's guidance on consultation.

FURTHER ACTION NOW PROPOSED FOR BONNER SCHOOL

6.35 The outcome of the consultation has been reviewed and there is support for the proposals.

6.36 The Mayor in Cabinet is recommended to agree to publication of statutory proposals for the expansion of Bonner Primary School. The statutory proposals will be published in East End Life and made available at the school and the PDC site. Any comments or representations on the proposals should be submitted to the Council by the end of the four week period. The University may submit comments at this stage if it wishes to do so.

6.37 If there are no objections to the statutory proposals in the four week period, the decision to implement will be dealt with by the Corporate Director, Children, Schools & Families in accordance with the scheme of delegation. If there are objections to the proposals, the decision will be referred to Cabinet.

6.38 The timetable for the process is set out below:

Cabinet receives a report on the initial consultation and decides on publishing formal statutory proposals	9 January 2013
--	----------------

Statutory proposals published with 4 weeks allowed for comments	21 January – 15 February 2013
The decision will be taken to implement the proposals either by the Council's Cabinet if there are objections; or, if there are no objections, by the Corporate Director of Children, Schools & Families	By 12 April 2013
Additional pupils admitted to Reception year	September 2013

7. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 7.1 This report concerns the formal process for consulting about and deciding on the expansion of Bonner School. The capital works are due to cost £5.0m in total. The £5.0m is reflected in the CSF capital programme, as approved at Cabinet on 5 September 2012. At the same time, Cabinet approved a capital estimate of £2.3m for the works to relocate the existing users of the PDC to the Bethnal Green Centre. These capital costs are met from DfE capital grants.
- 7.2 Future revenue costs of the expanded school will be funded through the schools enrolling more pupils and attracting more formula funding through the Dedicated Schools Grant.
- 7.3 Recommendation 2.3 above indicates that a financial consequence of the negotiations with the University of Cumbria could be the payment of financial compensation. At this stage, it is not known whether any compensation will be appropriate and, therefore, how much it might be. It would be expected that any compensation would be within the limits of Corporate Director delegated powers and in such a case, any costs would be met from the Early Intervention Reserve, managed by the Corporate Director for Children, Schools and Families. Sufficient funds are available within that reserve to meet such a cost, but this would have the effect of reducing the availability of funding for additional capital projects. Should such costs exceed the limits of the Corporate Director's delegated powers, officers would have to seek Cabinet endorsement for the proposal and identify how the overall costs would be funded.

8. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 8.1. Section 19 of the Education and Inspections Act 2006 provides that where a local authority proposes to make prescribed alterations to a maintained school, it must publish its proposals. The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 ("the Prescribed Alterations Regulations") specify what alterations made by local authorities are prescribed alterations and specify the procedure to be followed

when publishing and determining such proposals. The enlargement of a school's premises so as to increase the school's capacity by: (a) more than 30 pupils; and (b) 25% or 200 pupils (whichever is the lesser) is a prescribed alteration.

- 8.2. The Prescribed Alterations Regulations require the Council to follow a two stage process involving consultation prior to publication of a proposal, followed (assuming the Council wishes to proceed) by publication of the proposal. The consultation must include prescribed persons. The Council is required to have regard to the Secretary of State's guidance as to consultation on proposals. The guidance recommends that the consultation allows adequate time, provides sufficient information for those being consulted to form a considered view and makes clear how the views can be made known. Proposers must be able to demonstrate how they have taken into account the views expressed during the consultation in reaching any subsequent decision as to the publication of proposals. The report states that consultation complies with the requirements of the Regulations and guidance and so the Council is in a position to determine whether to publish a proposal.
- 8.3. The Prescribed Alterations Regulations prescribe what information must be specified in a proposal and how it should be publicised. The proposal should be published within a reasonable timeframe following consultation so that it is informed by up to date feedback. A statutory notice containing specified information and stating how complete copies of the proposals can be obtained must be published in a local newspaper, and also posted at the main entrance to the school (and all the entrances if there are more than one) and at some other conspicuous place in the area served by the school (eg. local library community centre). It is essential that the published notice complies with the statutory requirements as set out in the Regulations.
- 8.4. In carrying out its functions to make prescribed alterations to Bonner Primary School, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. Some form of equality analysis will be required and officers will have to decide how extensive this should be.
- 8.5. As has been mentioned earlier in this report, the University has issued proceedings for judicial review of the decisions taken by the Mayor in Cabinet in September 2012. The Council denies that any of those decisions was invalid, but now has an opportunity to consider these matters afresh while taking explicit note of the points raised by the University. The approach adopted will also enable the Council to discuss potential alternative accommodation options with the University.
- 8.6. It is considered that none of the Council's proposals amounts to a breach of the University's rights as occupier of part of the PDC. In particular, provided proper design, and adequate preventative steps are taken, the proposed development should be possible without breaching any term for quiet enjoyment.

9. ONE TOWER HAMLETS CONSIDERATIONS

- 9.1. The expansion of school is necessary to ensure the Council meets its legal obligation to secure sufficient schools for Tower Hamlets, but will also promote equality of opportunity for children and young people (including within the meaning of the Equality Act 2010).

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1. The design of the building and materials proposed to be used for works to the PDC site have taken account of sustainability and energy efficiency. Products to be chosen will offer significant energy saving values; insulation products that have an approved environmental profile; and timber from certified sustainable sources.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1. The project at has a high capital value and close monitoring of the project through the preparatory stages has been in place and will continue through implementation stages with appropriate, experienced project management resources. If the proposals do not proceed, there will be a risk to be managed that some children will be without a school place local to their home.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1. There are no specific implications arising.

13. EFFICIENCY STATEMENT

- 13.1. The Council is using its assets efficiently by seeking to extend and expand existing school sites to meet the needs of the rising school age population before acquiring land to build a new school

14. APPENDICES

Appendix A – Bonner School Consultation Document
Appendix B – PDC site plan

Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012

List of “Background Papers” used in the preparation of this report

Brief description of “background papers”	Name and telephone number of holder and address where open to inspection.
Planning to Meet the Growth Requirement for School Places 2012 – 2022 Cabinet 5 September 2012	Pat Watson 020 7364 4328



APPENDIX A

CONSULTATION ON NEW SCHOOL PLACES FOR THE MILE END AREA BONNER SCHOOL AT MILE END

More school places are needed in Tower Hamlets. The Council is proposing to make more school places at English Street, E3. From September 2013 there will be 60 places each year for children at Reception.

The new places will allow Bonner Primary School to expand. The Mile End site will be part of Bonner School which will expand from 60 places each year to 120 places each year. The existing school and the Mile End site will work together under the same Headteacher but children will have all their classes at one site only.

Bonner is an outstanding school and this expansion will enable more children to benefit from the excellent work of the school in providing a really good start for children from Reception up to year 6 (age 4/5 to 10/11 years).

The building which is now the Professional Development Centre in English Street will be converted to provide school places for local children. Eventually there will be space for 420 children and two nursery classes. The building was previously a school. Works will be carried out to the building to create excellent new classrooms and facilities for the children.

Bonner School, Mile End will be in the new 'Bow South' school catchment so applications from families living in this area will be given priority. To find out more about the new school catchment areas, please see the guidance on page 14 in the Starting School in Tower Hamlets brochure. You can also visit the website: www.towerhamlets.gov.uk/equalchance.

We would like to know your views about this proposal for expanding Bonner School. **You can drop in to the Centre in English Street to find out more on 9 October 2012 either from 10.00am to 11.00am or from 6.00 pm to 7.00 pm.** Please see map with directions on the next page.

The Council and the school governors are consulting parents in the Mile End area, parents of children already at Bonner School, staff of the school and other interested parties about the proposals.

Let us know your views by 10 November by coming to one of the meetings, by email to pat.watson@towerhamlets.gov.uk or by filling in the form over the page. After this consultation, a formal decision will be taken by the Council.

PDC in ENGLISH STREET E3 4TA



PROPOSAL TO EXPAND BONNER PRIMARY SCHOOL

CONSULTATION ON THE PROPOSED EXPANSION OF BONNER SCHOOL AT MILE END

	Please tick as appropriate
I agree with the proposal to expand the school	<input type="radio"/>
I do not agree with the proposal to expand the school	<input type="radio"/>

Other comments

--

Are you a:

Parent	<input type="radio"/>
School Governor	<input type="radio"/>
School Staff	<input type="radio"/>
Other	<input type="radio"/>
If Other, please specify.....	

NAME	
ADDRESS	
DATE	

Disclaimer: Your Name and Address will only be used for the purpose of contacting you with regards to this consultation.

Please return this page by 10 November 2012 to:

Pat Watson, Head of Building Development, Children, Schools & Families, Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG, or
 e-mail to: pat.watson@towerhamlets.gov.uk