

## **Committee: Cabinet**

**Date: 9 December 2013**

Agenda item:

Wards: Dundonald Primary School is located in Dundonald ward

**Subject:** Approval of statutory proposal under the Education and Inspection Act 2006 to permanently expand Dundonald Primary School

Lead officer: Yvette Stanley

Lead member: Cllr Martin Whelton

Contact Officer: Tom Procter – Service Manager, Contracts and School Organisation

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### **Recommendations:**

- A.** To approve the proposal for a prescribed alteration to expand Dundonald Primary School from 210 places plus nursery to 420 places plus nursery with a permanent admission number of 60 per year from September 2015.
- B.** That the reason for this decision is to provide basic need school places in the local area and the expansion of Dundonald Primary School provides extra places in an area of demand at a successful and popular school. The council's Head of Education is satisfied that the leadership of the school has the management capacity to continue to raise standards while the school expands.
- C.** To note that a report on appropriation of land from Dundonald Recreation Ground is being made to this Cabinet meeting and would need to be agreed before this prescribed alteration can be approved.

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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1** This report concerns proposals for the expansion of Dundonald School under the Education and Inspections Act 2006 and related statutory guidance. It is distinct from the report also being submitted to this Cabinet regarding appropriation of land needed for the expansion of the school,
- 1.2** Since 2008/09 the council has needed to implement unprecedented increases in the capacity of primary schools to meet demand. Forecast from the GLA is that the rise in demand will continue to 2016/17 and much of it will then be sustained.
- 1.3** In addition to other legal processes the council has been progressing the process required for the significant enlargement of Dundonald Primary School under the education related law. This has involved lengthy and

complex work with many stakeholders. Due to the time gap from the original statutory consultation undertaken in 2011 an additional consultation was undertaken in September 2013 in line with the statutory guidance and the council subsequently published a statutory notice on 31 October 2013 giving a further four week period for comments and objections to be made prior to final decision.

- 1.4 The statutory notice period expired on 28 November 2013 and it is now for the council to decide whether to agree to the expansion of Dundonald Primary School. As statutory decision maker, the council must also state the reason for the decision. The decision must be made within 2 months of the expiry of the statutory notice period, i.e. by 28 January 2013.
- 1.5 Capital resources are approved in the council's Capital Programme for the expansion scheme, aided by a DfE grant of £2.01 million.

## **2 DETAILS**

- 2.1. The London Borough of Merton has a legal obligation to secure the provision of sufficient school places for its area. There is a significant increase in demand for school places in Merton, with more children reaching school age, fuelled by the increase in the number of live births in the last ten years. Full details on the current supply and demand of school places were reported to Cabinet on 11 November 2013.
- 2.2. The expansion of Dundonald Primary School was first proposed in autumn 2010 when the council undertook a consultation on its primary school expansion strategy with proposed schools named.
- 2.3. Dundonald School was proposed as it meets all the key criteria for expansion agreed by the administration in autumn 2010. It is a popular and successful school. In its most recent Ofsted inspection (2009), it was rated outstanding and performance data since then shows it has maintained this level. The school has been heavily over-subscribed for its 30 places such that the maximum distance for a non-sibling place has decreased to barely 200 metres in recent years. Even with other recent school expansions in the local area such as Wimbledon Chase and Pelham Primary School, there are issues relating to the availability of a local school place for residents in the area around Dundonald Primary School.
- Statutory consultation
- 2.4. Following agreement to the overall strategy including Dundonald Primary School the council commenced a specific consultation on 18 May 2011. The council consulted on two related matters:
- The principle of expanding Dundonald School to be 2-forms of entry i.e. expand from its current capacity of 210 permanent places (plus nursery) to 420 places
  - Early design options for expanding the school and the potential impact on the recreation ground

- 2.5. The consultation was a statutory consultation under Education Acts and the related government guidance, to decide whether the council should go to the next stage of publishing a statutory proposal for expanding the school. However, it was also intended to be a wider consultation with the public given the impact on the recreation ground should the school expand. Specifically, the proposal required building school facilities and a replacement recreation ground pavilion on the equivalent footprint to the existing pavilion, with other changes in use of external recreation ground space. Therefore, the consultation was wider than all previous school expansion consultations, with over 4,500 leaflets distributed to local residents in addition to parents of children currently attending the school.
- 2.6. The consultation showed a balance in the views of current parents at Dundonald School, a significant majority of parents with pre-school children supporting the council's proposal, but a significant majority of local residents against the proposal.
- 2.7. Having carefully considered all the factors Cabinet decided to progress the expansion which as well as planning permission, required two additional processes due to the impact on the recreation ground.
- apply to the Upper Tribunal (Lands Chamber) for a modification to the existing restrictive covenant on Dundonald Recreation Ground
  - to proceed with the appropriation of the area of land required for the school expansion from Leisure Services to Education for the use of Dundonald School.
- 2.8. The modification of the restrictive covenant was agreed in June 2013 and as a result the council commenced the legal process on the appropriation of the land, which is also being considered by Cabinet at this meeting. Planning permission has now also been formally agreed with the decision notice issued on 28 November 2013.
- 2.9. While Cabinet in September 2011 provided authority to publish a statutory proposal subject to the covenant modification being agreed, the statutory guidance for the expansion of schools states "Proposals should be published within a reasonable timeframe following consultation so that the proposals are informed by up-to-date feedback. Proposals should therefore be published within 12 months of consultation being concluded"
- 2.10. In view of the lapse of time since the previous consultation in 2011, the council decided to hold an additional consultation by contacting interested parties as required under the statutory guidance since there may have been additional people who could be affected by the proposal. The consultation commenced on 4 September 2013 with a closing date of 3 October 2013. To comply with the requirements of the Education and Inspections Act 2006 and associated regulations and guidance, the following were directly contacted:
- Governing body – Dundonald Primary School
  - All families, teachers and other staff – Dundonald Primary School
  - Governing body, teachers and other staff – all LB Merton primary schools
  - Diocese of Southwark

- Archdiocese of Southwark
- Trade Union Representatives
- Stephen Hammond MP
- All early years providers and childminders in local area
- All LB Merton councillors
- Friends of Dundonald Park
- Protect Dundonald Rec

2.11. Unlike the original consultation, which served a wider purpose, a leaflet was not put out to the general public although the 'Friends of Dundonald Park' and the 'Protect the Rec' campaign group were contacted, and the consultation was placed on the council's website. Therefore some residents who were not parents of primary school pupils or pre-school children did reply. Nevertheless some of the responses from residents, including that from the Friends of Dundonald Rec and 'Save the rec', questioned why the consultation was not wider.

2.12. The repeated consultation concentrated on the issue of school expansion because this was its purpose, and residents' views in relation to impact on the recreation ground were specifically given due attention in two further legal processes associated with the proposals. Firstly, the planning application process in 2012 and secondly the statutory process in relation to the land appropriation. The land appropriation is being considered at this Cabinet meeting.

2.13. Following the statutory notice a key decision report was presented to the Director of Children's, School and Families who agreed that the council should publish a statutory notice.

#### Statutory notice

2.14. A statutory notice regarding LB Merton's intention to make a prescribed alteration to Dundonald Primary School was published on 31 October 2013 in the local Guardian newspaper, posted in the local library, posted on the school gates, on the recreation ground gate adjacent to the school, and placed on the council's website. As required in the regulations, four weeks were provided for any person to object to or make comments on the proposal, which expired on 28 November 2013. Appendix 2 provides a copy of the statutory notice together with the full prescribed information posted on the council's website.

2.15. The consultation section of this report outlines the results of the consultation and statutory notice period and officers' response.

### **3 ALTERNATIVE OPTIONS**

3.1. There is a statutory requirement to provide sufficient school places and the area has been identified as having a shortfall in the provision of places. The alternative is then to expand alternative schools or provide a new school site. Dundonald School was chosen as part of the council's school expansion strategy on the basis of the following criteria: Educational standards, parental preference, smaller schools expand where feasible, location, physical constraints of existing school sites, value for money and affordability and diversity including balance of faith and non-faith provision

- 3.2. All alternative schools that could be expanded in the local area have already been expanded yet there are still significant issues for residents around Dundonald Primary School to obtain a local school place. Attempts to find a viable site for a new primary school in the local area have not proved possible by either the council or a Free School provider.

## **4 SUMMARY OF THE CONSULTATION RESPONSES**

### Statutory Consultation

- 4.1. The Cabinet paper in September 2011 provides a detailed analysis of the consultation undertaken in summer 2011.
- 4.2. Appendix 2 provides a summary of all the responses to the September 2013 consultation. The full responses to the consultation and to the statutory notice have been made available to members.
- 4.3. For the September 2013 consultation a total of 16 responses were received, 6 from parents of children at Dundonald Primary School or with pre-school children, 7 residents who did not indicate any affiliation to the school or a pre-school child, and 3 from representative groups
- 4.4. All 6 parents of school children/pre-school children supported the expansion of the school for the following reasons.
- Obvious need for additional places and current school intake is inadequate and inappropriate for local needs.
  - Too few schools for the density of the population. Local schools build local communities
  - The proposed new building will be an asset to both the school and the whole neighbourhood
- 4.5. 6 of the 7 residents objected to the expansion for the following reasons.
- Questions whether there is a demographic need for the expansion
  - Concerns about the design of the building including small playground
  - Should build new schools instead
  - Covenant should not be broken.
  - Playground will still be too small.
  - Extra traffic and impact on parking.
  - Increased noise
  - Residents will be unable to use certain parts during school hours and community groups will not be able to use the pavilion.
  - Suitability of school building
  - The new development plus the re-modelled 'old' school building will be inadequate, overcrowded and too small. Question whether the detailed plans will comply with building regs, especially Approved Document B plus the Government Fire Risk Assessment Guides for Education. If not, the school will be both unusable and unsuitable.
  - Demand for places - questions the birth data and projections used to calculate the number of primary school places needed in certain planning areas in Merton. Concerned about overprovision in some planning areas

whereas other areas with increased birth rates have had no expansions. Suggests Beecholme as an alternative option. The proposal for a 'free school' serving the Raynes Park area should also be considered. Concludes that there may be demand for an additional form of entry but not in this ward or central Wimbledon. Council should urgently reassess primary school provision.

- Opposed to the expansion as do not want to lose the childminder drop-in at the pavilion. Bowling green has been neglected. Concerned about state of Rec during the building works and fear it will never be the same again. Concerned about children's safety due to increased traffic
- 4.6. One resident supported the expansion stating the small size of intake is causing ridiculous efforts to obtain a place and cannot see any reasonable ground for objection.
- 4.7. The Friends of Dundonald Park opposed the expansion for the following reasons:
- The latest data shows the basis for projecting pupil numbers has resulted in an overestimate.
  - The council's estimates could be met without building on highly value open space e.g. Beecholme instead
  - Suitable school sites were identified in the Council's Capita Symonds report
  - Free Schools could provide for the increase
  - A comparison of births and recent /proposed provision shows there is no shortfall of primary provision in the Wimbledon area.
  - Excessive noise to local residents
  - Inadequacy of pavilion and community facilities
  - Loss of mature trees and impact on conservation areas
  - Traffic and parking
  - Implementation issues
- 4.8. The 'Protect Dundonald Rec' group recognised that all previous comments would be taken into account so commented on two aspects
- Suitability of school building - both the new development plus the re-modelled 'old' school building will be inadequate, overcrowded and too small. Question whether the detailed plans will comply with building regs, especially Approved Document B plus the Government Fire Risk Assessment Guides for Education. If not, the school will be both unusable and unsuitable and
  - Demand for places – refers to the council's scrutiny paper on 17 September 2013. Queries the GLA figures on an increased demand for school places and whether the demand is really in Wimbledon given that Merton's council's data shows a 50% increase in provision in Wimbledon within a one mile radius of Dundonald and the expansion in planning areas 1, 2 and 3 (the west of the borough) has already exceeded the increase in births. The number of birth reduced in Merton in 2012. 5 tables provided to demonstrate the case. Concerned about overprovision in some planning areas whereas

other areas with increased birth rates have had no expansions. Suggests Beechholme as an alternative option to meet local need. Concludes as follows “The Council’s data may be used to build a case for an additional 21 FoE but it does not build a case for the expansion of Dundonald School. The recent and on-going increase in provision of primary school places may be required but there is no evidence in the Council’s data or in anything from the GLA to demonstrate that demand had not already been met in Dundonald ward and central Wimbledon. We therefore consider that the Council should undertake a complete reassessment of primary school provision as a matter of urgency, taking into consideration the above factors.”

- 4.9. Southwark Diocese supported the strategy of expanding Dundonald School but raised concerns regarding the possible impact on pupil numbers at All Saints Primary School (South Wimbledon/Colliers Wood area)
- 4.10. Representations during statutory notice period.
- 4.11. 28 responses were received to the statutory notice, of which 26 were objections and 2 of support.
  - Impact on recreation ground including sport and leisure when there is a lack of green space
  - Need to expand the school not demonstrated, nor alternatives considered properly. Considerable detail provided in paper from ‘Protect the Rec’ group and council hasn’t considered the fall in numbers locally from birth to school and to the independent sector. The GLA schools atlas provides additional information.
  - The school building/site is too small so the expansion does not meet current guidelines for new buildings, with the school split between two buildings
  - The school is excellent as it is and the unique character of the school will be lost
  - Congestion of cars and people at school time and lack of parking for staff
  - Expansion could impact on attainment, standards, and pupil behaviour at the school
  - Can’t understand the combined access of the new pavilion
  - The expansion will widen the gap between the east and west of the borough by pumping resources into the west and children will have to travel further from the east of the borough to the east to obtain a school place.
  - It is expensive.
  - Expansion jeopardizes the school’s relationship with the local community
- 4.12. In support:
  - We need additional places at a good school

- Expansion essential - I am 200 metres from the school but my child won't get a place unless the school is expanded

4.13. The 'Protect Dundonald Rec' campaign group provided a detailed response stating that local residents and users of Dundonald rec are strongly opposed the school expansion onto the public open space, and the views of the current users of the land have to be taken into account and given at least equal weight to those of parents around the borough who may want their children to have places at the school.

4.14. The response stated that there is no evidence that Dundonald School needs to expand to meet local need, with the following statement in bold "All of the

state-educated primary school aged children who live within 400m of

Dundonald School attend either Dundonald or other nearby schools: Wimbledon Chase, Pelham, Holy Trinity or St Marys. All of these schools have expanded, and now offer 80% more places: local demand is met by local provision".

4.15. The response provided some data from the Office for national statistics and the GLA stating that there are relatively few four year olds in Dundonald ward and the recent increase had only been small so Dundonald had a surplus, yet the deficit was areas to the east of the borough e.g. Graveney ward. They state that "distance offered" is a poor measure of local need as it varies massively from year to year for every school depending on the number of sibling places offered, and the fall at Dundonald is directly related to the rise in sibling places offered. It also offered the former 'Manuplastics site', (Kingston Road SW20) as an alternative. It claimed that the expansion, "far from increasing parental choice, promotes and reinforces inequality between the wealthy and the deprived areas of the borough as parents in wealthy parts of the borough have greater choice; it states educational standards won't be improved as a result of the expansion as all schools within 1 mile of Dundonald are 'Good' or 'Outstanding'. Lastly it was questioned whether the land, premises and capital to implement the proposals is available when the planning permission had not been resolved and the land was not available (i.e. the appropriation viability was questioned)

4.16. Dundonald Tennis Club stated that it represents many hundreds of Merton residents who use Dundonald Rec tennis courts including school children that do not attend Dundonald Primary School, and raised concerns regarding the loss of sports facilities and "the dubious claim that more school places are needed in Dundonald ward." It references a petition that had received more than 340 responses against the appropriation of the public land for education purposes.

## **OFFICERS' COMMENTS ON THE CONSULTATION AND STATUTORY PROPOSAL RESPONSES**



- 4.17. The statutory consultation responses were consistent with those in the consultation in summer 2011, showing strong support from parents with pre-school children and other parents to expand the school to provide local school places, but a significant number of objections from local residents without a direct interest in obtaining a school place. These are mostly for reasons relating to the impact on the recreation ground. These have been considered through the analysis in the September 2011 cabinet paper and the planning application process. They are now being considered as part of the Land Appropriation paper which is also being considered at this Cabinet meeting. They not factors that are considerations in the statutory guidance related to the Education and Inspection Act 2006.
- 4.18. Most of the responses to the statutory notice were against the proposal. There were no responses from parents of pre-school children to the notice but some parents had already made representations as part of the land appropriation procedure. The education statutory consultation, education statutory notice, and land appropriation notice all being consulted upon within a three month period.
- 4.19. From the statutory consultation and statutory notice period the following issues require further analysis:  
Whether the land is available for the decision maker to make a decision:
- 4.20. A planning approval decision notice was issued on 28 November 2013 so the decision does not need to be conditional on the granting of such permission. However, the expansion cannot be implemented unless the land appropriation is agreed so Cabinet is advised to make a final decision on the expansion once they have decided on the land appropriation.
- 4.21. Accommodation: The construction scheme has been developed with highly experienced professionals in school design and will meet all statutory requirements including the school premises regulations. There is no longer specific guidance on school accommodation but the most appropriate sources for determining a suitable primary school building is 'Building Bulletin 99' published by the previous government in 2006 and design guidance relating to the 'Priority School Building Programme' which is less generous in accommodation quantity. Both provide guidance on entirely new schools rather than extensions, but the principles of this guidance were used in developing the project. The scheme was developed in close consultation with the senior leadership of this Ofsted rated 'Outstanding' school and will meet all the requirements expected of a 2 form of entry school – 14 classrooms of a suitable size (the new classrooms to the ideal size, the existing classrooms are not changing, a main hall and supplementary hall and other supplementary spaces required to meet the curriculum and all safety requirements). The school site is exceptionally small, but with the proposed formalising of the arrangement for the enlarged tennis courts/multi use sports area for use by the school during specific hours during the school day, there is sufficient outdoor space for the school pupils
- 4.22. Size of school: The Head of Education considers that while some parents support the principle of a small school there is no empirical evidence that small schools provide improved standards. A two-form entry school is generally considered to be more financially stable than a one-form entry

school and can offer improved opportunities from there being more than one class in a year group. The leadership of Dundonald Primary School is strong and is highly capable of effectively managing the transition from a one to two forms of entry school.

Demographic need to expand the school:

4.23. The Cabinet on 11 November 2013 provided the latest overview of demand for school places in the borough. It recognised the definite need for 21 forms of entry expansion (compared to 2007) and that while the GLA (Greater London Authority) pupil forecasts suggest more growth equivalent of needing 28 to 29 forms of entry (and more if their 'alternate model' is used) with the greatest pressure in the Wimbledon and central Mitcham/Colliers Wood area, the council was not at this stage planning expansion beyond that already planned including Dundonald.

4.24. The distance that Dundonald has offered for distance-based places in the past 4 years is as follows:

Year	Siblings and special cases criteria	Distance
2013	21	105 metres
2012	10	217 metres
2011	13	303 metres*
2010	13	212 metres

\* First 30 places only – temporary 30 places also provided

4.25. It is accepted that the distance offered was particularly low in 2013 due to the larger number of siblings but the above data supports the extremely small distance that places can be offered for Dundonald Primary School, despite the substantial increase in provision at other local schools to keep up with demand.

4.26. Appendix 4 shows the maximum distance offered on offer day 2013 for the local schools mentioned in the representation from the Protect the Rec group. This shows areas where, except for residents with a church affiliation due to the distances offered a place at their most local schools cannot be provided.

4.27. In the consultation Southwark Diocese raised some concern regarding impact on All Saints CE school. However, there are 12 schools closer to Dundonald than these schools (1. Wimbledon Chase Primary School, 2 St Mary's Catholic Primary School, 3 Pelham Primary School, 4 Merton Park Primary School, 5 Holy Trinity CofE Primary School, 6 Bishop Gilpin CofE Primary School, 7 Joseph Hood Primary School, 8 Merton Abbey Primary School, 9 The Priory CofE School, 10 Poplar Primary School, 11 Hollymount School, and 12 Garfield Primary School). Although All Saints CE is only 1.1 miles from Dundonald 'as the crow flies', with transport links and actual road travel, it is a considerable distance and therefore serves a very different area.

- 4.28. Dundonald Primary School had more preference applications (435 on-time for reception year) than any other Merton primary school last year.
- 4.29. While, as acknowledged in the council's November 2013 Cabinet report, there is some evidence that the GLA's forecast additional 28-29FE could be an over forecast, the trend still appears upwards, and there is undoubted current pressure on Dundonald School as a highly popular successful school, as well as the surrounding area.
- 4.30. Some representations pointed out that the live birth figure in Merton had gone down in the 2012 calendar year. While there was a very modest fall, cohorts with higher birth figures are still to reach school age (see table below) and the case for expanding Dundonald Primary School to meet the need for local school places is still clear:

Academic year born	2008/09	2009/10	2010/11	2011/12
Academic year for reception year	2013/14	2014/15	2015/16	2016/17
Live births for cohort	3387	3485	3536	3496 *

\* 2011/12 is ⅓ ONS published 2011 calendar year, and ⅔ ONS published 2012 calendar year

- 4.31. Previous expansions have been more weighted towards Wimbledon as the starting off point in 2007 prior to the increase in demand across the borough was that the east had surplus places and the Wimbledon area had little surplus, hence the increase in demand required immediate expansions in Wimbledon while in the east of the borough schools were able to be full for the first time in many years before expansion was necessary. As shown in table 2 of the 11 November 2013 Cabinet report the latest GLA population forecasts for children age four shows that the largest increases in population over the next four years will be in the Wimbledon (planning area 3) and Mitcham/Colliers Wood (planning area 5) areas
- 4.32. The 'Protect the Rec' group suggested the council should be expanding a school in Mitcham instead of Dundonald. The council has already expanded several schools in this area to the east of the borough to meet local demand and may implement further expansion if and when required. Singlegate Primary School in Colliers Wood will be providing a further 30 reception places from September 2014, therefore admitting 90 places per year. There is no substance that there is any inequality in provision as Mitcham residents can currently obtain places at local schools and the council will expand further if and when it is needed.
- 4.33. In conclusion, the fresh consultation and statutory notice provided some limited additional evidence but does not weaken the case that Dundonald is the most oversubscribed school in the borough, provides an 'Outstanding' education, and is in an area of high demand that appears to still be growing. The Department for Education recognised the benefit of expanding Dundonald School in providing a specific grant to the school's expansion in

July 2013, prioritising it from bids across the country to provide additional high quality school places where they are needed.

#### Alternative sites

- 4.34. The Capita report on site searches did not show a viable alternative option in the local area, and this includes the one option suggested by the 'Protect the Rec' group in their response . Specifically, the council has been in contact with the landowner of the former Manuplastics site, Kingston Road SW20 who has made it clear he has an existing planning permission for development, which does not involve a school, that he intends to implement shortly.

## **5 TIMETABLE**

- 5.1. The proposal is for Dundonald School to provide 60 reception year places from September 2015.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. The capital cost of the schemes and funding was agreed by council as part of the capital programme in March 2013 and has been facilitated by a DfE grant of £2.01 million under the Targeted Basic Need Fund.
- 6.2. The revenue impact to operate the larger schools will be funded through the Dedicated Schools Grant, which increases on the basis of additional pupils, although there is a delay in receiving the funding for the additional pupils and it is not retrospective. This is the position whichever school is expanded
- 6.3. There are implications from the expansion in relation to the adjacent Dundonald Recreation Ground, which is the subject of an appropriation notice and will be considered prior to any final decision on the school's expansion.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. The council has a duty under section 14 of the Education Act 1996 to secure that sufficient schools are available for its area The council must exercise its education functions with a view to securing diversity of provision and increasing opportunities for parental choice and with a view to promoting high educational standards, ensuring fair access to educational opportunity and promoting the fulfilment of every child's learning potential. .
- 7.2. Proposals for prescribed alterations to schools must be made in accordance with statutory procedures set out in the Education and Inspections Act 2006, and associated regulations and having regard to statutory guidance published by the Secretary of State. Prescribed alterations include the enlargement of the premises of a school which would increase the physical

- capacity of the school by more than 30 pupils and by 25% or 200 pupils (whichever is the lesser).
- 7.3. Under current regulations, the authority is the decision-maker for these proposals. In making its decision, it must have regard to the statutory guidance for decision makers contained in 'Expanding a Maintained Mainstream School or Adding a Sixth Form'. The relevant sections are contained in appendix 1 to this report.
- 7.4. There are four key issues to be considered before considering the merits of the proposals:
- (1) Is all relevant information provided? The full proposals follow the template provided by the DfE and therefore give all the information required by the regulations.
  - (2) Does the published notice comply with statutory requirements? The notices were drafted by the council's legal section to meet all statutory requirements. They have been published in the local paper, at the school site and distributed to public libraries in Merton to meet publication requirements, as well as on the council's website.
  - (3) Have the statutory consultations been carried out prior to the publication of the notice? Details of the consultations, which met the statutory requirements, are included in the full proposals.
  - (4) Are the proposals linked or related to other proposals? The proposals for Dundonald are not linked to any other Education Act proposals.
- 7.5 In deciding whether or not statutory proposals should be approved, all proposals must be considered on their individual merits. The Guidance requires consideration of the effect on standards and school improvement, school characteristics, the need for places, funding and land, and any other relevant issues, including the views of all those affected by the proposals or who have an interest in them.
- 7.6 The decision maker should be satisfied that any land, premises or capital required to implement the proposals will be available. The proposed expansion requires use of land currently within Dundonald Recreation Ground. Cabinet will need to agree the appropriation of the land required for school use if the proposals are to be approved, including the transfer of an area of land to become permanently part of Dundonald School and agreement to the appropriation of land for (a) a replacement two-storey pavilion for the primary purpose of changing facilities and a social space for the recreation grounds but which may at certain times have a more flexible use and (b) tennis courts/multi use sports area of which the school will have exclusive use at set times as set out in a Community Use Agreement.
- 7.7 Paragraph 6 above confirms that sufficient funding has been agreed by the council to fund the scheme.
- 7.8 The Decision Maker also needs to be satisfied that the admissions arrangements meet the provisions of the School Admissions Code. This is the view of officers. Dundonald Primary School is a community school included in the admission arrangements applying generally to Merton community schools. The admissions policy for the school will remain unchanged following expansion.

- 7.9 There is a presumption that proposals for the expansion of popular and successful schools will be approved. There is no definition of a successful and popular school in the legislation or guidance; this is for the decision maker to decide having regard to the school's performance and the number of applications for places and any other relevant evidence.

The Local Authority feels that Dundonald Primary School would be considered under the presumption for the expansion of successful and popular schools. The school was rated in their last Ofsted as 'outstanding' and is one of the most oversubscribed schools in the borough on its current admission numbers

- 7.10 The regulations require that a decision on the proposals be made within two months of the end of the representations period, or the proposals must be referred to the Schools Adjudicator.. The governors of the school that is subject to the proposal, the local Church of England Diocese, and the bishop of the local Roman Catholic diocese each have the right to appeal against the authority's decision to the Schools Adjudicator. Any such appeal must be made within four weeks of the local authority's decision.
- 7.11 If proposals are approved, the council will be under a statutory duty to implement them.

## **8. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1 All recent LB Merton school expansions are implemented to meet the basic need of children to receive an education, and this can be in conflict with other residents' desire not to have the impact of development in their neighbourhood. The expansion of Dundonald School does mean the loss of a bowling green, a sport for which older people are more likely to play, but there is an opportunity for the council, in its role as leisure provider, to consider the best use of space in the recreation ground for the future. The council ceased to maintain the bowling green in September 2012 due to its cost in relation to the low number of members using it
- 8.2 Paragraph 4.32 and admissions information generally does not support any view that there is a lack equality of sufficient school provision to the less wealthy east of the borough compared to the west and there is no case that Dundonald Primary School is being expanded instead of a school to the east of the borough.
- 8.2 The Equality Act 2010 introduced a new Public Sector Equality Duty ,which came into effect in April 2011.This covers eight 'protected characteristics'(age, disability ,gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation). It establishes a general duty on public bodies to have 'due regard' in carrying out its functions to the need to:
- a. eliminate unlawful discrimination, harassment and victimisation:
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it ;and
  - c. foster good relations between people who share a protected characteristic and those who do not.

In making any decision the decision maker should have due regard to the above duty.

## **9.0 CRIME AND DISORDER IMPLICATIONS**

- 9.1 There are no specific crime and disorder implications

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1 Some of the legal issues in relation to this scheme are highlighted in the main body of the report.
- 10.2 Health and safety would be considered carefully in the development of the project to ensure there will be a clear separation between pupils, teachers, parents, recreational ground users and construction work, while ensuring the school and recreation ground can continue to function appropriately during the works.

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

Appendix 1 - Statutory Guidance: Factors to be considered by Decision Makers

Appendix 2 - Copy of the statutory notice incorporating the full prescribed information with summary of the consultation responses for the September 2013 statutory consultation

Appendix 3 – Summary of all representations to the statutory notice (original copies of responses available to the decision maker).

Appendix 4 – Map showing maximum distance offered for Dundonald and other local school for distance-based admissions

## **12 BACKGROUND PAPERS**

- 12.1 Cabinet paper September 2011 on Dundonald School expansion
- 12.2 Key decision report to publish a statutory proposal to expand Dundonald Primary School - October 2013
- 12.3 The full 'prescribed information' detail for the statutory notice can be viewed on-line on <http://www.merton.gov.uk/schoolsconsultations.htm> or by request to Contracts and Schools Organisation at the council civic offices.

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