

Leicester
City Council

DRAFT – Legal, Financial and Property Comments to be updated
**WARDS AFFECTED:
Rushey Mead Ward**

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS

Education and Lifelong Learning Scrutiny Committee
Cabinet

7th October 2004
18th October 2004

Proposals for the Relocation of Gateway College to the Rushey Mead Secondary School / Soar Valley College Campus

Report of the Corporate Director of Education and Lifelong Learning

1.0 Purpose of the Report

- 1.1 This report describes the proposal to relocate Gateway College from its current city centre site to a new purpose built campus on the Rushey Mead school playing fields. The relocation would be part of a wider set of linked regeneration proposals being developed by the Council's partners including Central Government, the Learning and Skills Council, Gateway College, De Montfort University and the University Hospitals of Leicester NHS Trust.
- 1.2 These agencies seek the support of the City Council, particularly in relation to land acquisition and planning, to deliver the various projects that will promote education, health, leisure and economic prosperity in the City. This report discusses specific proposals for the relocation of Gateway College, which is part of the incorporated education sector and, as such, operates independently of the City Council. The College is seeking support in principle and the Council's agreement to sell or lease approximately 2.5 Ha of school playing fields to build a new college campus. This proposal has links with the DMU / NHS proposal for a joint medical / nursing school on the DMU campus and also the development of the science park at John Ellis in conjunction with EMDA.
- 1.3 A Cabinet decision is not a material consideration for the planning committee and this report forms no part of the Council's process for determining any application for planning consent. Support in principle, however, would allow further design and development work on the project to progress and applications to be made for government disposal consents.

2.0 Summary

- 2.1 The Government has recently published its 5-Year Education Strategy. When enacted, this will place an obligation on the Council and other education funders and providers to work closely together to plan the provision of secondary education. This obligation will reinforce the national strategy for 14-

- 19 education which encourages Local Education Authorities (LEAs), LSCs, schools and colleges to work closely together to ensure that, jointly, there is a full and diverse range of educational opportunities for this age group.
- 2.2 The Council and its partners are already well advanced in terms of collaborative planning. Together with the other sixth form and FE colleges in the City and the Learning and Skills Council (LSC), Gateway has been a key partner in the Council's 'Building Schools for the Future' (BSF) bid. Indeed, it is recognised that the strength of this collaboration was instrumental in the City's success in the BSF bidding process.
- 2.3 The specific benefits of the proposal can be described as follows.
- 2.3.1 The Government's strategy for 14-19 education acknowledges that the current system, whereby most students follow a relatively narrow and common route through school, often does not adequately meet the particular needs of individual students. There is now a greater emphasis on diversity and choice so that every student has the opportunity to fulfil their maximum potential. For example, it is recognised that the current system does not do enough to challenge and stretch the most academically able. Likewise, students that are not engaged by academic study have insufficient opportunity to follow vocational or occupational training courses.
- 2.3.2 Further detailed national guidance on the 14-19 curriculum is currently being prepared for the government (Tomlinson). However, preliminary findings were published earlier this year and there are already good examples within the City of wider choice and opportunity being provided for students by collaborative working between schools and sixth form / FE colleges. Gateway College already provides extension mathematics courses to students from Soar Valley College, Health and Social Care courses to students from Babington Community Technology College and Leisure and Tourism courses to students from Hamilton Community College.
- 2.3.3 The work carried out by Leicestershire LSC, the OFSTED Area Wide Inspection (AWI) and the City / County Strategic Area Review (StAR) all pointed to the need for increased joint working between the LEA, LSC, schools and the FE establishments to ensure that there is a diverse and full range of opportunities for 14-19 students in the City and surrounding area. In response to these findings, the LEA has led a 'Transformation Group', including senior LEA and LSC officers, secondary headteachers and sixth form and FE college principals. The Key proposal arising from the work of the Transformation Group was the establishment of 3 collaborative zones covering the City. The aim is for each collaborative to jointly plan provision to ensure that there is a full range of choice and opportunity available within each zone so that students can access the course, or combination of courses, of their choice without having to travel across or out of the City.
- 2.3.4 It is proposed that Gateway College will work with the Northern Collaborative Zone which includes Crown Hills Community College, Soar Valley College, Babington Community Technology College and Rushey Mead School, to plan provision for 14-19 year olds. It is considered essential for Gateway to have a

- geographical location close to the heart of the northern zone if it is to collaborate effectively and share provision through jointly run courses.
- 2.3.5 The proposal to relocate Gateway College, together with the BSF proposals to rebuild and remodel Soar Valley College and Rushey Mead School would provide the City with a unique opportunity to develop an educational provision in the north that would be at the forefront of current thinking on 14–19 education. This would be achieved by building on the current arrangements for joint delivery of the curriculum and enable students at all three establishments to share and utilise specialist state of the art facilities in each.
- 2.3.6 The report describes a number of benefits to the community including increased learning and sporting opportunities. The proposal is linked to other regeneration initiatives with wider implications for education, health and regeneration of the City as noted in Paragraph 1.2 above.
- 2.4 The proposals are not without some disbenefits including loss of playing fields, departure from planning and other policies and some loss of amenity for local residents due to increased traffic and parking. A number of local residents are opposed to the proposal and Keith Vaz MP has formally objected to the disposal of playing fields.
- 2.5 There are significant property implications to be considered.
- 2.5.1 The proposal to negotiate a sale with Gateway does not readily fit into the Framework for Disposal of Property previously approved by Cabinet. It is not possible to determine the value of the land without exposing it to the market. Clearly, it would not be desirable to market in this case as disposal is only being considered specifically to facilitate the relocation to a joint campus. Government provides the Council with a general consent to dispose of assets at less than best consideration where this is in the general interest of the local community and where any proposed undervalue is less than £2m. Although the Gateway proposal would meet both of these criteria it is proposed that a negotiated sale would be on the basis of an estimate of market value.
- 2.5.2 Although not clear at this stage, the development of the Rushey Mead site might have implications for adjacent Council land (at the former Harrison Road allotments), which may have development potential bringing capital receipts currently in the region of £1.5m to £2m. However, the site is not designated in the local plan as housing land and there would be a number of conditions to satisfy before development potential could be confirmed. If there are definite opportunity costs, these would be recognised and reflected in the terms of any disposal of the Rushey Mead site.
- 2.5.3 Gateway proposes to dispose of Blackbird Road Playing Fields, where the Council also has land ownership. In the event that planning consent is forthcoming at Blackbird Road, any sale or lease of the Rushey Mead site to Gateway should require an agreement for the joint marketing and disposal of the Blackbird Road site.

- 2.5.4 Cabinet has previously given approvals relating to the sale of the former John Ellis School site and a conditional sale contract has been entered into. Rushey Mead and John Ellis lie within each other's radius of consideration for the evaluation of playing field requirements required for applications for Government consent to dispose of school playing fields. Any approval of sale of the Rushey Mead site should be conditional on there being no adverse implications for the John Ellis disposal. This can only be achieved by a concurrent consideration of the applications;
- 2.5.5 To gain the support of Sport England to development on Rushey Mead land, planning obligations to provide replacement facilities are likely to be required. Preliminary discussions with Sport England and the College's agents have explored improved facilities at Rushey Fields Recreation Ground, and new changing rooms at John Ellis to bring the playing fields back into use. The former are likely to be relatively straight forward. However, the latter would need further discussion with EMDA who have a conditional contract to purchase part of the John Ellis site.
- 2.5.6 This report contains no recommendations or implications that would give rise to any financial subsidy to Gateway College and this would be the basis on which the terms of a disposal would be negotiated. Section 3 includes a recommendation that Members reserve final approval until detailed terms have been negotiated.

3 Recommendations

- 3.1 The Cabinet is recommended to:
- (1) Note that any Cabinet decision is not a material consideration for the planning committee and this report plays no part in the determination of the planning application;
 - (2) Note the opportunity to provide essential support for the regeneration proposals being prepared by the Council's partners and the significant educational benefits arising from the proposal and agree in principle to support the scheme and to sell or lease approximately 2.5 Ha to Gateway College at market value, the valuation to reflect any opportunity costs to the Council and any extraordinary planning obligation costs to the developer;
 - (3) Authorise the Director of Education and Lifelong Learning to make application to the Secretary of State for Education and Skills for his consent for the disposal of land in (2) above under Schedule 35A to the Education Act 1996 and Section 77 of the School Standards and Framework Act 1998;
 - (4) Note that the Government's revised decision framework for the disposal of playing fields means that capital receipts from the disposal must, almost certainly, be used solely for the improvement of outdoor play and sports facilities;

- (5) Subject to the decision of the Planning Committee, support the proposal to place planning obligations, secured by way of a Section 106 agreement, to require Gateway to provide new changing facilities at John Ellis playing fields, improvements to facilities at Rushey Mead Playing Fields, access to Gateway changing rooms for community users of the proposed multi-use games area at Soar Valley College and access to other facilities at the College and authorise the Director of RAD to negotiate terms to give effect to any S. 106 obligations arising.
- (6) Authorise the Director of Resources, Access and Diversity to:
 - a) In respect of the Rushey Mead site, negotiate terms for the disposal agreement with Gateway and /or De Montfort University, any such terms to include a requirement to enter into an agreement as described in (b) below, and
 - b) In respect of the Blackbird Road land, negotiate terms for a joint marketing and disposal agreement with Gateway and / or De Montfort University, and
- (7) Reserve final approval of the proposals and request a further report detailing the terms of disposal and proposals for expenditure of capital receipts / Sect 106 contributions when these have been negotiated.

4 Property, Financial and Legal Implications

4.1 Property Implications

These are set out in Paragraph 2.5 above and in the main body of the supporting information.

Chris Ingham
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4.2 Financial Implications

The report recommends that any disposal reflects the full market value of any assets and takes into account any opportunity cost that the Council may incur. Government legislation would require the Council to reinvest any capital receipts in outdoor play or sports facilities in the area to compensate for the loss of playing fields. Members are recommended to reserve final approval of any transaction until the final terms have been negotiated. The proposal fits in with current plans for secondary schools within the BSF proposals. The running costs of maintaining any new changing facilities would be met from commuted Section 106 contributions and charges to users. Any shortfall would be met by the Education and Lifelong Learning Department and managed through the budget monitoring process. There would be no impact on the revenue budget of Rushey Mead school or Soar Valley College.

David Wilkin
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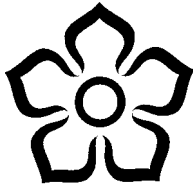
4.3 Legal Implications

The main legal implications concern the Secretary of State's consents and disposal of land for less than best consideration, all of which are appropriately dealt with in the Report.

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SUPPORTING INFORMATION

1 Introduction

- 1.1 This report sets out the background to the proposal to relocate Gateway College from its current city centre site to a new purpose built campus on the Rushey Mead school playing fields. The report describes how the proposal links with a number of other regeneration and redevelopment projects and discusses and how the Council can help to facilitate these through the Gateway relocation. The benefits and disbenefits of the proposal are discussed. There is a balance to be found between, on the one hand, the unique educational opportunities and community benefits and on the other hand, the loss of some local amenity and departure from planning and open space policies.

2 Links with other regeneration proposals – the wider picture

- 2.1 Gateway College is currently located on a city centre campus which is no longer suitable for its needs, as discussed in Section 3 below. The College has proposed a relocation to a possible site on the Rushey Mead school playing fields to the north of the City.
- 2.2 De Montfort University has long held aspirations to acquire the current Gateway site as part of its campus masterplan. Recently this site, if it becomes available in time, has emerged as the most feasible location for a proposed new joint medical and school nursing school to be developed in conjunction with the University Hospitals of Leicester NHS Trust. The medical school project is therefore dependent on Gateway vacating their current site.
- 2.3 Appendix 4 shows the site of the former John Ellis Community College. Since the college was closed, the lack of changing facilities has prevented the use of

the playing fields. Cabinet has already agreed to the disposal of the area shown hatched on the plan, essentially the site of the school buildings and paved areas, to develop the science park around the National Space Centre. Although the East Midlands Development Agency (EMDA) have conditionally purchased the site, government consent for the proposal is still required and an application to the Secretary of State has been made. As part of the Gateway relocation proposal, it is proposed to place a planning obligation (Section 106) on Gateway to provide the Council with new changing facilities, car parking and access at John Ellis, upgrade the pitches to bring them back into use and provide a commuted sum for future maintenance. This would show that there is coherence between the various proposals, reduce the likelihood of objections to the disposal of the land at John Ellis and Rushey Fields and improve the chances of consent for these disposals. It would enable the playing fields to be brought back into use for the benefit of local schools and sports clubs. However, it should be noted that Gateway College might find it problematic to fulfil these Section 106 obligations. The development would require planning permission and careful consideration would need to be given to flood risk. Also, as EMDA have a conditional contract to purchase the development site the proposal would need their agreement.

2.4 The City Council and Gateway College both own playing fields at Blackbird Road. Subject to the planning inspector's decision on the proposed revisions to the Local Plan, (due in November 2004), there will be the potential for housing development on the Blackbird Road site. Indeed, Gateway are relying on the capital receipts from this site to make a significant contribution to the funding of the proposed new campus at Rushey Mead. It would be in the Council's interest for the land at Blackbird Road to be marketed and developed jointly by the City Council and Gateway. In order to ensure that the Council obtains favourable terms, it is proposed that Gateway be required to enter into an agreement to jointly develop the site as a condition of the sale or disposal of the Rushey Mead site.

2.5 The Council has an important role to play to facilitate these regeneration schemes by exercising its planning function and by co-ordinating the use of its land holding. The Planning Committee will consider planning issues independently in accordance with statutory procedures. In this instance it is not envisaged that the Council will make a financial contribution by way of a disposal at less than best consideration. However, it is noted that the Council could dispose with a modest undervalue if it wished to support other agencies in promoting the general well-being of the citizens of Leicester.

3.0 Background to the Gateway Relocation Proposal

3.1 Gateway is a sixth form college with around 1300 students. The college offers educational opportunities, primarily for 16-19 year olds, but also offers a number of evening and basic skills courses. The college was established in 1976 and, since incorporation in 1993, has been part of the further education

sector. The college derives the majority of its income from the Learning and Skills Council (LSC), the national FE funding body.

- 3.2 Although the college is independent of the City Council, together with the other sixth form and FE colleges in the City and the LSC, it has been a key partner in the Council's successful 'Building Schools for the Future' (BSF) bid. Furthermore, the national strategy for 14-19 education encourages Local Education Authorities (LEAs), LSCs, schools and colleges to work closely together to ensure that, jointly, there is a full and diverse range of educational opportunities for this age group. For the City Council, as with its partners, the line between direct and indirect service provision will be very much less distinct in the future. This point is important because the Council's framework for disposal of assets imposes a requirement to demonstrate an element of direct service provision.
- 3.3 In addition to the more obvious educational and financial considerations, the City Council has an interest in the wider implications for health, recreation and regeneration in the City as the proposal forms one part of a much wider set of proposals described elsewhere in the report. In particular, it links with De Montfort University's plans for the City Centre, the potential development land that the City Council holds at Blackbird Road and the Science Park at Abbey Meadows.
- 3.4 Gateway College currently occupies a City Centre campus located adjacent to De Montfort University's campus. The buildings occupied by the College date back to the 19th Century, which brings with it inherent deficiencies associated with older buildings. The capacity of the College means that it can no longer accommodate all of the learners wishing to attend courses. The existing site is already densely developed with later additions to the building stock in the 1960s. These buildings are of a CLASP design and have reached the end of their economic life.
- 3.5 The College has considered how best to develop its estate to ensure that the needs of the learning community are met. It has concluded that the most appropriate solution would be to relocate to a new site and construct a purpose built campus. A feasibility study carried out for the College in 2003 considered a number of possible locations and concluded that the preferred option would be to relocate to a site in the north of the city where a large proportion of the learners reside. The College has subsequently developed more detailed proposals for a new campus on part of the playing fields of Rushey Mead School and has been successful in securing in-principle agreement from the LSC for funding towards the project which, it is estimated, will cost in the region of £17 million. Appendix 1 shows the proposed location of the college.

4 The educational benefits of the proposal

4.1 National strategy for 14-19 Education and collaborative planning

- 4.1.1 The Government's strategy for 14-19 education acknowledges that the current system, whereby most students follow a relatively narrow and common route through school, often does not sufficiently meet the particular needs of

individual students. There is now a greater emphasis on diversity and choice so that every student has the opportunity to fulfil their maximum potential. For example, it is recognised that the current system does not do enough to challenge and stretch the most academically able. Likewise, students that are not engaged by academic study have insufficient opportunity to follow vocational or occupational training courses.

4.1.2 Further detailed national guidance on the 14-19 curriculum is currently being prepared for the government (Tomlinson). However, preliminary findings were published earlier this year and there are already good examples within the City of wider choice and opportunity being provided for students by collaborative working between schools and sixth form / FE colleges. Gateway College already provides extension mathematics courses to students from Soar Valley College, Health and Social Care courses to students from Babington Community Technology College and Leisure and Tourism courses to students from Hamilton Community College.

4.1.3 The work carried out by Leicestershire LSC, the OFSTED Area Wide Inspection (AWI) and the City / County Strategic Area Review (StAR) all pointed to the need for increased joint working between the LEA, LSC, schools and the FE establishments to ensure that there is a diverse and full range of opportunities for 14-19 students in the City and surrounding area. In response to these findings, the LEA has led a 'Transformation Group', including senior LEA and LSC officers, secondary headteachers and sixth form and FE college principals. The Key proposal arising from the work of the Transformation Group was the establishment of 3 collaborative zones covering the City. The aim is for each collaborative to jointly plan provision to ensure that there is a full range of choice and opportunity available within each zone so that students can access the course, or combination of courses, of their choice without having to travel across or out of the City.

4.1.4 It is proposed that Gateway College will work with the Northern Collaborative Zone which includes Crown Hills Community College, Soar Valley College, Babington Community Technology College and Rushey Mead School, to plan provision for 14-19 year olds. It is considered essential that Gateway has a geographical location close to the heart of the collaborative zone if it is to collaborate effectively and share provision through jointly run courses.

4.2 An 11 -19 Campus

4.2.1 The proposal to relocate Gateway College, together with the BSF proposals to rebuild and remodel Soar Valley College and Rushey Mead School provides the City with a unique opportunity to develop an educational provision in the north that would be at the forefront of current thinking on 14 – 19 education. This would be achieved by building on the current arrangements for joint delivery of the curriculum and it would enable students at all three establishments to share and utilise specialist state of the art facilities in each.

5 Community benefits arising from the proposal

5.1 Increased lifelong learning opportunities

5.1.1 Gateway College currently provides a number of courses for adult learners but the City Centre location attracts relatively small numbers. The current facilities are not fully accessible to disabled people and, given the age and nature of the existing buildings, it is not practicable to make them so. The college has identified the area to the north of the City as not well served by existing services and sees considerable scope for adult and community learning in collaboration with the Council.

5.2 Sporting and other opportunities

5.2.1 The current Gateway planning application includes a library, ICT training centre, photography and multi-media suites, a performance theatre, kitchen and dining area and 4 court sports hall. All of these facilities would be made available to the local community and secured under the terms of the lease or by planning obligation.

5.2.2 The proposals for planning obligations and use of capital receipts are discussed later in this report. However, it should be noted that the government is tightening controls over the disposal of school playing fields and in future, all proceeds must be reinvested in new or improved outdoor play and sports facilities in the local area. The Council could, either by imposing Section 106 obligations or by using capital receipts, ensure that the relocation delivers the following:

- New changing facilities, access and car parking and commuted sums for maintenance at the former John Ellis School site to enable the school playing fields there to be brought back into full use for local schools, Gateway College and local sports clubs.
- Improvements and future maintenance to the existing facilities at Rushey Fields Recreation Ground including the upgrading of the tennis courts, bowling greens and cricket pitches.
- Joint use and commuted sums for the maintenance of the proposed multi-use games area about to be constructed on the Soar Valley playing fields using funding from the Big Lottery Fund (New Opportunities Fund)

6 Disbenefits and other matters to be considered arising from the proposals

6.1 Loss of school playing fields.

6.1.1 Any local authority wishing to dispose of school playing fields (either by way of sale or a lease of more than 7 years) must obtain the consent of the Secretary of State for Education and Skills in accordance with Section 77 of the School Standards and Framework Act 1998 (hereafter referred to as Sect. 77). Since 1998 there has been a presumption against consent for the disposal of playing fields. The Government has recently announced that the guidance is to be further tightened so that, in cases where consent is granted, the proceeds from the disposal must be used to provide new or improve existing outdoor play or sports facilities. In addition, the Council would require the Secretary of State's

consent under Section 35 of the Education Act 1996 as it is land used wholly or mainly for the purposes of a school.

6.1.2 Government has a policy of encouraging the expansion of successful and popular schools. This is reflected in the way they determine Sect. 77 applications as the assessment of playing fields required is based on an inflated number of pupils to allow for future expansion. Appendix 2 gives a schedule of the playing field requirement for various scenarios. It can be seen from Appendix 2 that:

- both Soar valley and Rushey Mead currently have more than the recommended minimum area of playing fields
- Soar Valley could accommodate the expansion that the DfES require an allowance for when assessing the adequacy of playing fields. Rushey Mead does not meet the minimum requirement although the aggregate for the two schools is sufficient.
- If the Gateway proposal were to proceed, Rushey Mead would have a deficit based on current numbers on roll. However, if the John Ellis playing fields are counted in towards the Rushey Mead school allocation, it can be demonstrated that the Sect.77 requirements can be met.

6.1.3 The assessment of playing field adequacy might be regarded as something of a theoretical exercise. Rushey Mead school rarely uses the area of playing fields required by Gateway because there is no direct access from the school. In practice, therefore, the playing fields available to Rushey Mead School would not be reduced. Furthermore, the government requirement to allow for the capacity for expansion in the assessment does not reflect the real trend in the demand for school places. It is expected that by 2010 the current fall in roll at primary school level will have worked through to secondary schools. As such, the falling student population is likely to provide any additional places required as a result of increased popularity or success.

6.1.4 Sport England are statutory consultees to both the planning application and the Sect. 77 processes and have raised objections to the Gateway proposal through both. Council officers have recently met with representatives of Sport England who have indicated that they may withdraw their objection if there is sufficient compensation by way of investment in other outdoor sporting facilities in the area. They have indicated that they would be satisfied with new changing rooms for local schools, the local community and sports clubs on the John Ellis site to enable the playing fields there to be brought back into use and with improvements to the existing tennis, bowling and other facilities on the Rushey Mead Recreation Ground. These improvements could be secured either by way of a planning obligation (which is Sport England's preference) or by ring-fencing the capital receipts from the disposal for this purpose. However, as noted in Paragraph 2.3, there are a number of potential obstacles to the provision of changing facilities at John Ellis.

6.2 Planning Issues

6.2.1 The area is not designated for development in the local plan. However, development control officers have commented informally that the green and open character of the area would still be preserved under the proposal and there is no overall deficiency in public open space in the area. The loss of sports provision is a separate issue but the proposed Section 106 obligations or investment of capital receipts could provide adequate compensation. This is covered in Paragraph 6.1.4 above. Were the Council to give planning consent to the proposal, the Government Office could call in decision because it could be regarded as a significant departure from the local plan. The relocation proposal raises a number of issues in relation to satisfactory access and egress to and from the site onto Melton Rd. There is also the issue of parking and other traffic impact. Gateway College have commissioned a Traffic Impact Assessment. Consideration of access, parking and other traffic issues is ongoing as part of the process of determining the planning application. The College has commissioned an ecological impact assessment. It is believed that a suitable landscaping / ecological improvement could provide satisfactory compensation for the impact of the building proposals but acceptable proposals have yet to be submitted. The Environment Agency make recommendations to the Planning Committee on matter of flooding and drainage as a statutory consultee. They have responded to the consultation and have raised no objections to the development, subject to conditions reducing the potential risk of flooding. Development control officers have indicated that the current proposals submitted by Gateway College are not satisfactory, particularly the front elevation and how it relates to the street scene and other settings. Gateway has expressed a willingness to work with Council officers to overcome their concerns and find a mutually acceptable design. Discussions are ongoing.

7 Land and Property Issues

7.1 Before deciding on any disposal of land at Rushey Mead to the College, various issues need to be considered as noted below.

7.2 Disposal Framework

7.2.1 In July 2003 Cabinet approved the Framework for the Disposal of Property. This is a framework that enables the Council to give consistent and equitable responses to the numerous requests which are received for the disposal of property. In respect of Rushey Mead and Gateway College, it is necessary to proceed through the framework asking key questions and considering the criteria set down.

7.2.2 Does the Council still require this property in order to deliver the function for which it is currently held? If not, is it required to fulfill another function of the authority?

7.2.3 The site in question is currently held for Education purposes and it is for the Director of Education and Lifelong Learning to be satisfied that it is no longer required for the Education function the Council provides. In this respect, the disposal does not readily fit into the framework because the disposal is only being considered in order to create a unique opportunity for a 'cutting edge'

joint campus with the two adjacent schools. As discussed previously, there is the need for Section 77 consent to dispose of school playing fields. Government would take into consideration the needs of other schools in the area. However, consultation has shown that local schools would have no objection to the disposal.

7.2.4 If the Council is satisfied that the site is not required to deliver the function for which it is held, the Corporate Director of RAD would normally clarify whether it is required to fulfil another function of the authority; circulation of details of the site to service departments would clarify this. However, in this case, the Corporate Director of Education and Lifelong Learning advises that the proposed use of the site would still retain an element of direct service provision and the creation of an 11-19 campus is the only reason that disposal is being considered.

7.2.5 Does the surplus land need to be marketed on the open market? Is there a market for similar service provision? The Framework sets out the following:-

“A disposal to a person or body where the terms of the disposal are to facilitate the exercise of the Council’s functions, subject to the Council’s Community Plan, Budget and Policy Framework and where there are:-

Significant returns or benefits to the Council commensurate with the level of service or function that would otherwise have been provided by the Council or

Where the services are of a high priority but the Council is not delivering the service direct.

However, in both cases, where there is a market for similar service provision this category shall not apply.”

Following on from above, if the disposal of the site proceeds, the general assumption set out by the Framework is that the property/land is marketed on the open market. A limited number of exceptions to this (‘Exceptional disposals’) that may enable a negotiated sale on a one to one basis are set down. One criterion set down is service delivery, where the disposal would facilitate the exercise of the Council’s functions. The Corporate Director of Education and Lifelong Learning considers there are direct service implications that satisfy this criterion. Also the Framework sets down that where there is a market for similar service provision, the criteria for dealing by negotiation on a one to one basis does not apply. Therefore, even if Gateway College is part of the Council’s service delivery, if there are other organisations that could provide a similar service, the site should be openly marketed. However, the Corporate Director of Education and Lifelong Learning advises that the proposal has the support of all local partners within the Incorporated Sector and it is therefore unlikely that an alternative provider would come forward from this sector.

7.3 Best Consideration

If, in the light of the above, the Council is satisfied that a sale to Gateway is an 'Exceptional Disposal' the terms of the disposal need to be examined, predominantly the consideration. The General Disposal Consent 2003 does give local authorities, in certain circumstances, consent to dispose of land at less than best consideration. The Council must also have regard to its general fiduciary duty. Notwithstanding the General Consent, the general assumption within the Framework is that a disposal should be at best consideration; the exceptions being either that the Council has agreed to sell at less than best consideration or that the consideration cannot be evidenced as best consideration. In this case, in the absence of a Council decision to the contrary, the principle should be for sale at best consideration. However, in the absence of marketing, best consideration cannot be evidenced therefore in accordance with the Framework, it is possible that a modest undervalue could be identified in order to utilise the General Disposals Consent 2003 and help protect against any challenge.

7.4 Value of Land

7.4.1 The site is included as green space within the Draft Replacement City of Leicester Local Plan. The Corporate Director of Regeneration and Culture has stated clearly that 'the site has no development potential as an alternative to the college, except as sport facilities. Even the use of the site by Gateway may be challenged in view of the most recent government announcement on new rules for playing field sales'. Sports facilities should be taken to be outdoor sports facilities in the context of the government's announcement, i.e., playing fields.

7.5 Opportunity Costs/Impact on Other Sites in Council Ownership

7.5.1 The recent Allotment Review has identified part of the adjacent Council owned former Harrison Road allotment site as a possible residential development site. This review was carried out in agreement with the Allotment Society and in conjunction with the planners. If planning permission can be obtained, the receipt from this site could be in the region of £1.5m to £2m. However, the Corporate Director of Regeneration and Culture comments that the surplus allotments would only have development potential if it can be demonstrated that the site is not needed for any alternative open space use and if satisfactory access can be provided.

7.5.2 If, as a consequence of Gateway's development, it materialised that the allotment site could not be developed (to maintain adequate open space provision) then there would clearly be an opportunity cost to the Council. The factors that might materialise include the need for replacement 'green space' (in planning or environmental terms) in lieu of the area lost at Rushey Mead, or indeed any needs arising from the Section 77 process for replacement playing fields. However, these factors would become clearer before concluding any contract with Gateway.

7.5.3 The Council is currently in negotiation with Bharat F.C for a lease of part of the adjacent 'park land'. If this lease is exclusive to the Club, Gateway must not

assume that the land will count towards any open space (or playing field) requirements arising from their development.

7.6 Blackbird Road Playing Fields

7.6.1 Subject to the outcome of the inquiry into the replacement local plan, Gateway College propose to dispose of its playing fields at Blackbird Road where the Council also own a large area of adjoining land. Draft Site Development Guidance proposes that the College's land and the Council's land are developed together to provide some 20 acres of housing and 15 acres of improved open space/community playing fields. There is an understanding between the College and the Council that the whole site would be sold jointly and the proceeds (possibly around £10m) would be split pro rata according to the acreage held by each party. This would give the Council a capital receipt of some £3.5m. The Corporate Director of Resources, Access and Diversity recommends that, if the Council are to deal with Gateway at Rushey Mead, it will be on the basis that the above joint arrangements in respect of Blackbird Road are formalised.

7.7 John Ellis Site

7.7.1 Cabinet of 15/3/04 gave various approvals relating to the disposal of the former John Ellis School site. The disposal of that site is subject to a Section 77 consent, and the Rushey Mead site is within the radius for required consultation on any playing field deficiency. If the Council is to deal with Gateway on the Rushey Mead site, it should be conditional on there being no adverse implications arising for the John Ellis site arising from either of the two Section 77 applications.

8 Public Opinion and Public Consultation

8.1 Gateway College commenced informal consultation during autumn 2003 with lead Members, the governing bodies of several schools including Soar Valley College, Rushey Mead School and Hamilton Community College and local stakeholders.

8.2 In January 2004, City Council officers from Planning, Corporate Property and Education met with the College Principal and their consultants. It was noted that there would be statutory consultation for both Planning and Section 77 applications. Both parties agreed that it would be best to rationalise consultation processes as far as possible and that Gateway College should lead on all non-statutory consultation with the local community. Officers stressed that the consultation should be conducted in a way that would allow them to give an accurate report on the views of the local community. The Council would undertake statutory consultation in accordance with its legal obligations.

8.3 Gateway College continued to provide regular briefings to the local community on developments including 22,000 editions of 'Gateway News' the college newsletter, delivered to houses in the north of the City.

- 8.4 Council officers carried out a review of the consultation carried out by Gateway College in June 2004 and expressed concern that the information provided advocated the proposal rather than providing 'neutral' information, that information had not reached all local people either due to location or language and that it had not been very easy to respond or make comment. In response to this, the College published a further consultation document which was distributed to 24,000 homes in north Leicester and through Rushey Mead School and Soar Valley College. The document gave contact details in various community languages and included a freepost return slip. The College was also represented at the Belgrave Mela where drawings and a scale model were on display, interpreters were available and consultation slips could be filled in and returned.
- 8.5 The Education Department has carried out a consultation with local schools, residents and users regarding the disposal of the school playing fields as required by Section 77. There were 11 letters of objection including Sport England, The Leicestershire and Rutland Playing Fields Association, Leicester Asian Sports Association and the Belgrave, Latimer and Rushey Mead representative for the Leicester Partnership. There were 6 letters of support for the proposal.
- 8.6 The Development Control Team have carried out a consultation in connection with the planning application. At the close of the statutory consultation period, 16 letters of objection were received including 7 from residents in Stafford Street, adjacent to the site. There was one letter in support of the proposal.
- 8.7 As a result of the consultation carried out through the newsletter and stand at the Mela, the College has received 200 written responses. Of these, 178 were in favour of the proposals (89%), 12 were opposed (6%) and 10 were neutral (5%). Of those opposed to the proposal, the main concerns were the loss of green space, the presence of more students in the area and additional traffic.
- 8.8 Keith Vaz MP held a public meeting on 10th September 2004, attended by 150-200 members of the public, including a number of residents from the stadium estate who had related concerns about the sale of unused playing fields off Blackbird Road. Local residents attending the meeting were opposed to the development on the grounds of loss of green space, increased traffic and parking and increased numbers of students in the area. Mr Vaz asked for a show of hands from local residents, there were around 10 in favour of the proposal and 100 against. Mr Vaz has indicated that he will seek to make representation to the Secretary of State for Education and Skills.
- 8.9 It should be noted that Sport England might be prepared to withdraw their objections submitted under Planning and Sect. 77 if satisfactory compensatory provision is made (as noted in Section 5.1.4.)

9 Equalities Impact Assessment (EIA)

9.1 An initial equalities impact is included in Appendix 5. The main issues to arise from the assessment were:

- Loss of playing fields and the impact on users who are of predominantly Asian origin. It is considered that the compensatory measures discussed with Sport England will ensure that the overall impact is neutral.
- Reduced contact between different communities because of the relocation of the College. The EIA identifies the relocation to the north of the City could have potential for a negative impact on community cohesion. This can be countered by building stronger links with other secondary schools and communities in the north of the City through availability of information, courses for 14 – 16 year olds and good sustainable transport links to the college for all communities in the north.

10 Conclusions

10.1 As with almost all development proposals, there is a balance between the benefits of the proposal to the wider community and the loss of some local amenity to nearby residents. This particular case also requires a judgement about the balance between the unique educational opportunities that should arise from collaboration between the schools and college and conflicting planning and environmental presumptions. Having considered this balance and, in particular, having discussed with Sport England how satisfactory compensation for outdoor sporting provision could be made, officers have made the recommendations below.

11 Recommendations:

Cabinet is recommended to:

- (1) Note that any Cabinet decision is not a material consideration for the planning committee and this report plays no part in the determination of the planning application;
- (2) Note the opportunity to provide essential support for the regeneration proposals being prepared by the Council's partners and the significant educational benefits arising from the proposal and agree in principle to support the scheme and to sell or lease approximately 2.5 Ha to Gateway College at market value, the valuation to reflect any opportunity costs to the Council and any extraordinary planning obligation costs to the developer;
- (3) Authorise the Director of Education and Lifelong Learning to make application to the Secretary of State for Education and Skills for his consent for the disposal of land in (2) above under Schedule 35A to the Education Act 1996 and Section 77 of the School Standards and Framework Act 1998;
- (4) Note that the Government's revised decision framework for the disposal of playing fields means that capital receipts from the disposal must, almost

certainly, be used solely for the improvement of outdoor play and sports facilities;

- (5) Subject to the decision of the Planning Committee, support the proposal to place planning obligations, secured by way of a Section 106 agreement, to require Gateway to provide new changing facilities at John Ellis playing fields, improvements to facilities at Rushey Mead Playing Fields, access to Gateway changing rooms for community users of the proposed multi-use games area at Soar Valley College and access to other facilities at the College and authorise the Director of RAD to negotiate terms to give effect to any S. 106 obligations arising.
- (6) Authorise the Director of Resources, Access and Diversity to:
 - a) In respect of the Rushey Mead site, negotiate terms for the disposal agreement with Gateway and /or De Montfort University, any such terms to include a requirement to enter into an agreement as described in (b) below, and
 - b) In respect of the Blackbird Road land, negotiate terms for a joint marketing and disposal agreement with Gateway and / or De Montfort University, and
- (7) Reserve final approval of the proposals and request a further report detailing the terms of disposal and proposals for expenditure of capital receipts / Sect 106 contributions when these have been negotiated.

12 Financial Implications

These are as set out in the Summary Report.

13 Legal Implications

These are as set out in the Summary Report.

14 Other Implications

OTHER IMPLICATIONS	YES/NO	PARAGRAPH REFERENCES WITHIN SUPPORTING PAPERS
Equal Opportunities	Yes	Impact Assessment – Section 9
Policy	Yes	The proposals support the national strategy for 14-19 education, and the LEA's proposals for zonal collaboration. They support the

		Corporate Plan objective of raising educational standards and a number of the key priorities.
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Older People on Low Income	No	

14.1 Risk Assessment Matrix

Risk 1 – disposal of playing fields restricts future opportunity to increase number of places in existing schools

Risk 2 – adverse reaction to loss of amenity (open space, increased local traffic), etc., if perceived to outweigh the benefit of additional educational and leisure opportunities.

Risk 3 – disposal of site could have a knock-on effect on proposals to dispose of other playing fields.

Risk	Likelihood L/M/H	Severity Impact L/M/H	Control Actions (if necessary/or appropriate)
1	M	M	Assessment shows there is sufficient land to meet future requirements of both schools.
2	M	M	Public consultation has been undertaken for Section 77, planning and by developer. Further consultation undertaken by K Vaz MP.
3	L	H	Only current proposal is the Ellis playing field disposal. The Section 77 applications could be developed concurrently.

L - Low
M - Medium
H - High

L - Low
M - Medium
H - High

15 Background Papers – Local Government Act 1972

15.1 Report to Cabinet – proposed relocation of Gateway College, 5th April 2004.

16 Consultation

Consultee	Date Consulted
Education Head of Finance (David Wilkin)	6/9/04
Assistant Head of Legal Services (Guy Goodman)	Ditto
Head of Asset Strategy and Development (Chris Ingham)	Ditto
Planning Strategy (Alison Bowen)	Ditto
Planning Development Control (Jo Briggs)	Ditto
Head of Sports (Paul Edwards)	Ditto

17 Report Author

17.1 John Garratt, Head of Planning and Property, Education and Lifelong Learning

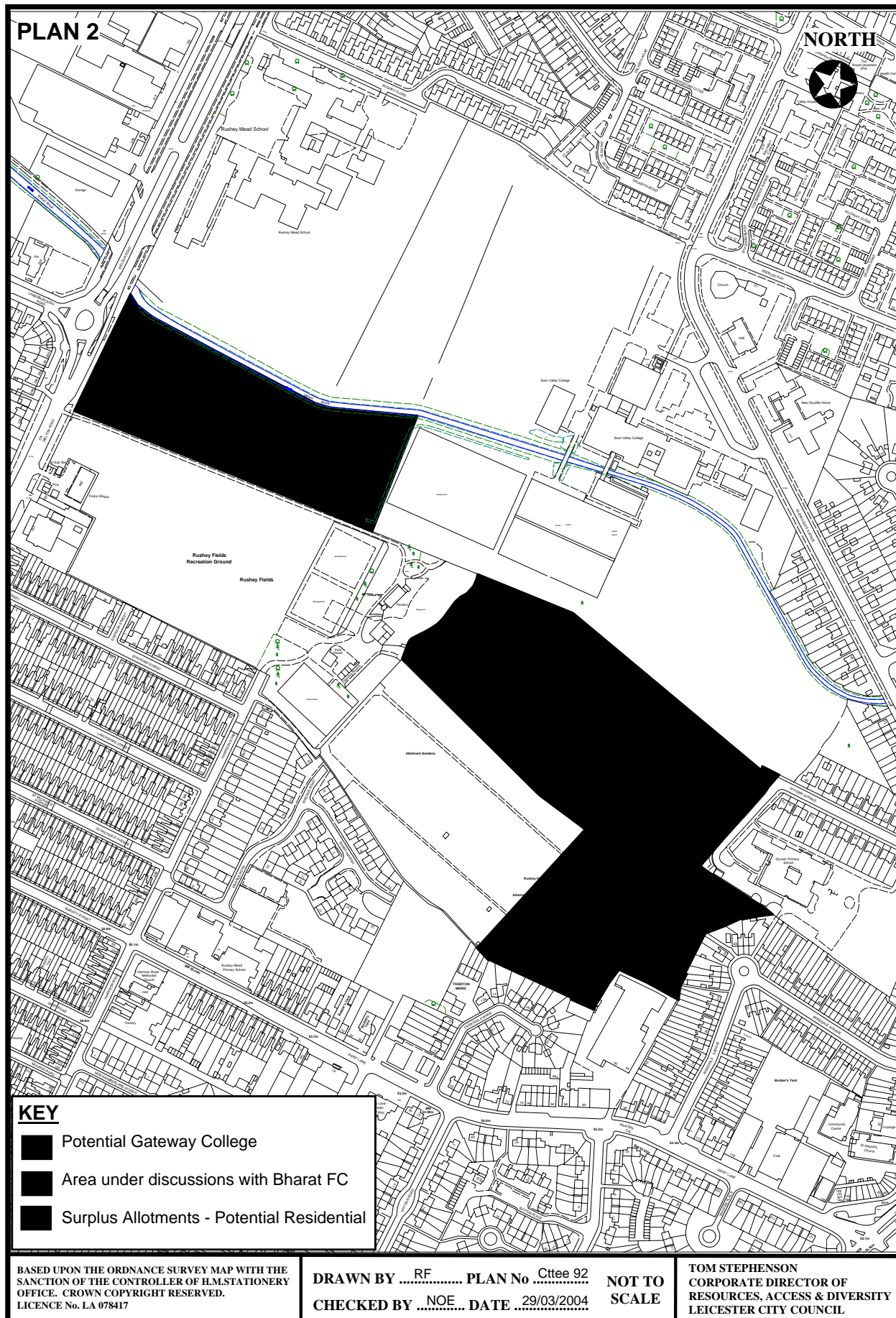
Extn. 7766

E-mail john.garratt@leicester.gov.uk

APPENDIX 2 - PLAYING FIELD REQUIREMENTS

School / College	Current Playing Field Area	Proposed area after disposal to Gateway	Playing field requirement for pupils on roll (sq. metres)			Sec. 77 req'ment allowing for expansion	Proposed playing field area incl. John Ellis	Worst case Surplus / Deficiency after disposal to Gateway
			1200	1275	1350			
	sq. metres	sq. metres				sq. metres	sq. metres	sq. metres
Rushey Mead Sch	61,540	37,125	50,000	55,000	55,000	70,000	93,125	+23,125
Soar Valley C.C.	80,763	80,763	50,000	55,000	55,000	65,000	136,763	+71,763
Gateway College	0	24,415 (proposed total site area)	N/A	N/A	N/A	N/A	N/A	N/A

APPENDIX 3 – RUSHEY MEAD AREA LAND OWNERSHIP



APPENDIX 4 – JOHN ELLIS PLAYING FIELDS



APPENDIX 5 – INITIAL EQUALITIES IMPACT ASSESSMENT (EIA)

1. Definitions:

The following terms are used in the equalities impact assessment:

Function: Broad areas of authority activity, duties and powers usually defined by national legislation (statutory) but also by political choice (non-statutory).

Policy: Formal publicly recorded decisions of the authority detailing the way in which functions will be carried out. May also include decisions not recorded as formal policies but implicit in the way that a function is carried out; 'professional decisions', 'custom and practice'.

Procedure: The activity at the core of employment practice or service delivery. The way in which a function is actually exercised or policy carried out. The impact of professional decisions or custom and practice.

Function, Policy and Procedure are hereafter referred to as FPP.

2. Background to EIAs

An EIA is a systematic way of finding out whether a FPP affects all groups equally. Authorities can use it to take account of different needs and experiences, and to:

- Achieve better results generally
- Identify actual and potential inequalities and
- Respond as necessary to these inequalities

Authorities have a duty to set out their arrangements for assessing and consulting on the impact that their FPPs can have on the promotion of equality. The purpose of an EIA is to provide an assessment of the impact of a FPP with regard to race, gender and disability (other groupings of religion and/or belief, sexual orientation, age and social class can also be included). EIAs provide the opportunity to consider the reasons why a FPP may have differential impact on different groups.

The outcome of an EIA is that if the assessment identifies inequalities or unmet needs and/or unequal outcomes, then the data will form the basis for developing equality objectives and target setting. If the assessment indicates that the FPP should be abandoned then any new/proposed policy would then be subject to an EIA process and relevant improvements in the policy should be made.

3. Definition of the FPP

The FPP concerns the relocation of Gateway college from its current city centre location to a proposed new site at Rushey Mead. Gateway College is funded and operates independently of the City Council. The Council must decide whether to sell / lease the Rushey Mead site to the college and assess the potential impact of loss of

playing fields. In order to seek consent from the Government for the sale of playing fields, the Council must decide whether or not it supports the principle of the proposal.

4. Scope the EIA

The scope of this EIA is specific to the Gateway relocation proposal and is not intended to form a policy basis for other EIAs. Although the Council is responsible for determining the planning application for the proposal, the decision of the Planning Committee is not within the scope of this EIA.

5. Aims and objectives of the FPP

In terms of the Council's specific role, the aims and objectives in relation to the recommendations within this report are:

To support partner organisations in the delivery of redevelopment proposals that will improve education, health and the general well-being of citizens of Leicester.

The needs that the proposal are designed to meet are as described above. Specifically, it is designed to improve opportunity and choice for students in the north of the City and learners in the local community.

There are some associated FPPs as the project has links with other regeneration proposals including developments in health, commerce and industry.

6. The Council's Corporate Equality Strategy

The proposals are consistent with the corporate equalities strategy as they would improve access to learning to a number of groups that are disadvantaged. In particular the proposals would provide improved access to education and other facilities for disabled people, learners with special needs at both ends of the spectrum including gifted and talented students and students with learning disabilities and people with English as an additional language. The proposal would improve life opportunities for people from disadvantaged backgrounds.

7. Initial Quality Assessment

The questions and responses on the Form 1 form the basis of the initial EIA

Form 1 Part A

Equality Impact Assessment – Initial assessment screening

Questions to help identify inequality, unmet needs or unequal/adverse outcomes of chosen FPP.

Name of FPP: **Proposed Gateway College Relocation**

1. Is equality a theme running across the different areas of the FPP?

Yes	Partly	No	N/A
	√		

In relation to learners with special needs, including disabilities

2. Does the FPP incorporate objectives of the Corporate Equality strategy, Department Equality Action Plan?

Yes	Partly	No	N/A
	√		

In relation to increasing equality of access to all groups of users

3. Do these objectives cover areas of Race, Gender and Disability? (impact of FPP on other equality areas can also be assessed e.g. sexuality, religion and/or belief, age and social class)

Yes	Partly	No	N/A
	√		

It is an objective to improve access and opportunities for learners with special needs, including disabilities. The potential for reduced integration of different ethnic groups is recognised but this is not an objective of the proposal.

4. Does the FPP make reference to the diversity of the population it serves?

Yes	Partly	No	N/A
√			

	Yes	Partly	No	N/A
5. Does the FPP include conducting EIA as part of the planning, review and evaluation processes?		√		

	Yes	Partly	No	N/A
6. Does consultation of the FPP take place with Internal groups	√			
External groups/organisations	√			
Council departments	√			

All Departments, CDB, Education Scrutiny, Cabinet
 Local schools, residents, service users, ward councillors, MPs, general public

	Yes	Partly	No	N/A
7. Have decisions been made on the communication/distribution of information around the FPP?	√			

Statutory consultation by the Council pursuant to Section 77 and planning obligations.
 Non - statutory or voluntary consultation by the promoter of the project.

	Yes	Partl y	No	N/A
8. Do these take into account the different communication needs of the diverse groups and individuals?		√		

Consultation was provided in community languages and through media normally used by the local community. Interpreters were available at presentations.

8. Analysis of evidence of unmet needs/unequal/adverse outcomes

Form 2 below contains a brief analysis of the evidence from Form 1

Form 2

	Yes	Partly	No	N/A
Evidence of any potential inequality, unmet needs?		√		

The impact of the loss of playing fields could have an impact on users who are predominantly of Asian origin. However, compensatory outdoor sports provision in the local area is likely to address any potential inequality.

	Yes	Partly	No	N/A
Evidence of any potential unequal/adverse outcomes?	√			

Reduced integration of different communities could occur because of the relocation from the city centre location

9. Response to potential adverse outcomes

The loss of playing fields could be seen to impact adversely on local users who are of predominantly Asian origin. Alternative compensatory provision is proposed by way of new changing facilities to bring other playing fields back into use together with the upgrading of other outdoor facilities in the local area facilities. Adequate compensatory provision is assured otherwise Sport England would oppose Section 77 consent and / or planning consent.

58% of the current number of students on the roll of Gateway College live in the Rushey Mead area. The students from this area are predominantly of Asian origin. Concerns have been expressed by some local people that relocating the college to Rushey Mead will lead to less integration between the predominantly Asian local community and students of other ethnic origins and that this would have an adverse affect on community cohesion in the City. It seems that there is the potential for this to happen. However, there is no precedent for a decision on the grounds that a predominance of service users of a single ethnic origin is undesirable.

Gateway College in its current location provides good opportunities for students of different ethnic origin from across the City and surrounding area to integrate. Key to ensuring that the relocation would have no adverse affect on social cohesion would be Gateway College's ability to continue to provide similar opportunities but on a zonal basis rather than city-wide. In other words, the College will need to ensure that it is attractive to other students in the northern area of the city, for example students from Hamilton and Babington. In order to do this, the College will need to ensure that it:

- Promotes its opportunities in these schools;
- Builds links with the schools by continuing to provide courses for 14-16 year olds, and
- Ensures that there are adequate transport links without private car dependency.

The College has already demonstrated, through its work with the 'Transformation Group' and subsequent implementation that it is prepared to engage fully in collaborative planning. The college already offers a number of vocational courses to students from Babington and Hamilton. Planning consent for the proposal will not be granted unless the Council is satisfied that the College can ensure that there are adequate transport links to the College from the area it is intended to serve.

10. Monitoring , reviewing and evaluating the FPP

The College is able to provide statistical evidence to show the ethnic composition and home addresses of its roll which would allow the impact of the proposal to be monitored.

Any obligations to provide or subsidise transport arising from planning obligations would be monitored through the normal planning processes.