

Central Bedfordshire Council

EXECUTIVE

2 August 2016

Commissioning of New School Places in Biggleswade for September 2017

Report of: Cllr Steve Dixon, Executive Member for Education and Skills
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This report relates to a Key Decision

Purpose of this report

1. To provide Executive with the outcome of the consultations by Biggleswade Academy Trust and the Governing Body of St Andrews Church of England VC Lower School, Biggleswade, each to expand by 1 form of entry (30 places in each lower school year group) by September 2017.
2. To seek the Executive's approval of each proposal to expand, subject in respect of Biggleswade Academy Trust to approval also by the Department for Education (DfE), and for the Council's commitment to required capital expenditure.
3. The schools referred to within the report serve the Wards of Biggleswade North and Biggleswade South.

RECOMMENDATIONS

1. **Note the responses received to the consultations by Biggleswade Academy Trust and the Governing Body of St Andrews Church of England VC Lower School, Biggleswade, each to expand by 1 form of entry (30 places in each lower school year group) by September 2017.**
2. **Approve the commencement of capital expenditure as set out in the report, subject in respect of Biggleswade Academy Trust to the approval of the proposal by the Education Funding Agency, and subject to the grant of planning permissions under Part 3 of the Town and Country Planning Act 1990.**

Children's Services Overview and Scrutiny

4. A report was presented to Children's Services Overview and Scrutiny Committee at its meeting on 15 March 2016 and the Committee indicated its support for the proposals outlined in this report and for the commencement of the recommended consultations, the outcomes of which are set out within this report.

Pupil place planning for Middle and Upper School places in Biggleswade

5. On 5 April 2016 the Council's Executive approved the recommendation of the report to support consultations by Biggleswade Academy Trust and the Governing Body of St Andrews Church of England VC Lower School, Biggleswade, each to expand by one 1 form of entry (30 places in each lower school year group) by September 2017.

The April report can be viewed as Agenda Item 11 at:

<http://centralbeds.moderngov.co.uk/ieListDocuments.aspx?CId=577&MId=4923&Ver=4>

6. The proposals were made with the support of the Council and its need to commission new school places as a result of its 2015/16 demographic forecasts for the Council's School Place Planning pyramid area covering Biggleswade and the surrounding rural area. The forecasts confirmed a sustained 2 form entry (60 places per year group) deficit in Lower School provision in the town by 2018/19 with pressure building from Sept 2016.
7. With the support of the Council each school's consultation commenced on 14 April 2016 and concluded on 12 May 2016 including public meetings. The consultations were undertaken to comply with DfE guidance published for making prescribed alterations to LA Maintained Schools and for Academies wishing to make significant changes.
8. The consultation materials and a summary of responses received by Biggleswade Academy Trust are attached at Appendix A to this report.
9. Issues arising through the consultation have been reflected upon in the summary report provided by Biggleswade Academy Trust within Appendix A. A total of eleven responses were received to the consultation with the majority in support of the proposal.
10. The consultation materials and a summary of responses received by St Andrews Church of England VC Lower School are attached at Appendix B to this report.

11. Issues arising through the consultation have been reflected upon in the summary report provided by St Andrews Church of England VC Lower School within Appendix B. A total of nine responses were received to the consultation with the majority in support of the proposal.
12. Where concerns were raised in response to each proposal these related to the design and layout of the expanded premises, potential highways and noise implications and the accuracy of the pupil forecasting of the need for further new school places in the Town, which are addressed in the town planning application and in the appendix. Concerns were also raised of the revenue impact on existing school budgets of school expansions, which is addressed under the financial implications.
13. Each proposal has been subject of feasibility studies and early engagement with the Council's planning and highways officers to inform further design work to ensure that the required expansion of buildings and reconfiguration of external areas on each site can be implemented following the necessary submission and approval of planning applications with mitigating measures agreed where necessary.
14. The planning applications will be subject of separate consultations with the local community and will be informed by reviews of each school's travel plans to reflect the increased intake to each site and the need to ensure a continued focus on the promotion of the use of sustainable modes of transport to school, recognising the potential for increased traffic movement at peak times around school sites.
15. The April 2016 report to Executive set out clearly that since 2013 the Council has commissioned an additional 300 lower school places in Biggleswade. The strategic need for those additional places to be provided by September 2015 was initially reported to the Council's Executive in March 2013 and was informed by projection data included within the Council's 2012 School Organisation Plan.
16. The Council's School Organisation Plan is reviewed and updated on an annual basis and provides a five year projection. The need for further expansion of lower school places to be provided from September 2017/18 is the result of significant further demographic growth in Biggleswade that was not evident in the forecasts that justified the Council's 2013 commissions but has now been confirmed by the July 2015 demographic forecasts and school admission data.
17. It is highly likely that further significant new housing developments in the Town, planned or proposed beyond the current five year forecast period, will increase the likely need for further new school places to be provided. The Council will continue to ensure that all opportunities are taken to seek sites for new build and expansions of existing school buildings within such developments.

18. In order to support expansions commissioned by the Council, the senior leadership teams of Schools and Academies can apply for additional revenue support for related costs funded through the Dedicated School Grant Growth Fund established by the Schools Forum.
19. The business case that Biggleswade Academy Trust has prepared is attached at Appendix C and articulates how the proposal is aligned with the Council's Policy Principles on Pupil Place Planning in Schools.
20. Biggleswade Academy Trust has considered the outcome of its consultation and has agreed that it wishes to proceed with the proposal. As a result, a significant change application will be submitted by the Trust to the Department for Education's Education Funding Agency to secure approval for the expansion of the Academy. The Trust has also continued to work with the Council in developing the design proposals for the new facilities required if the expansion is approved.
21. The business case that St Andrews Church of England VC Lower School has also prepared is attached at Appendix D and articulates how the proposal is aligned with the Council's Policy Principles on Pupil Place Planning in Schools.

Design and procurement of the new provision

22. Working with their appointed education capital consultant and with support from the Council, Biggleswade Academy Trust has commissioned design studies for the school's expansion. These have referenced Building Bulletin 103 which provides area guidelines for mainstream schools.
23. The resulting cost estimates have indicated that the project is affordable within the total capital budget established by the Council. The Academy intend with the support of the Council, to directly procure the project. This will follow a procurement exercise which will be undertaken when planning approval has been secured, if the Executive approves the recommendations contained within this report.
24. The governance of the project will be provided through a board that will include Council officers from the School Organisation & Capital Planning Team who will control the release of capital funding aligned with the achievement of key project milestones.
25. The Council will procure the capital works required for the expansion of St Andrews CofE VC Lower School and will utilise the procurement framework that enabled delivery of the original school.

Reasons for decision

26. The consultation undertaken on the proposal to expand Biggleswade Academy Trust has complied with DfE Guidance for making significant changes to an existing Academy, published in March 2016.
27. The consultation undertaken on the proposal to expand St Andrews Church of England VC Lower School has complied with the January 2014 DfE Guidance for making prescribed alterations to LA maintained Schools.
28. The proposals support the Council's Policy Principle of investment in successful schools. St Andrews Church of England VC Lower and Biggleswade Academy are both rated Good by Ofsted.
29. As set out in detail in the April report to the Council's Executive, the completion of the proposed projects outlined within this report will ensure that the Council continues to meet its statutory obligations to secure sufficient school places for children in the Biggleswade area.
30. Each school has submitted a business case which has been evaluated by Council officers and is provided at Appendices C and D attached to this report. The proposals comply with the Council's Policy Principles for Pupil Place Planning in Schools and each school's ambition is aligned with the Council's Partnership Vision for Education 2015-2019.
31. Ward Councillors have received briefings on the Council's forecasts of demographic growth and the need to plan for additional school places in the Biggleswade area and are supportive of both proposals.

Council Priorities

32. The report supports Central Bedfordshire's Five Year Plan 2015- 2020 and the specific priority of Improving Education and Skills.

Legal Implications

33. Section 14 of the Education Act 1996 places a duty on Councils to secure sufficient primary and secondary school places to provide appropriate education for pupils in its area. S14A of the Education Act 1996 imposes a duty to consider representations about the exercise by local authorities of their functions from the parents of qualifying children in relation to the provision of primary and secondary education. Qualifying children include all those of compulsory school age or under.
34. The Education and Inspections Act 2006 gives Councils a strategic role as commissioners, of school places and includes duties to consider parental representation, diversity and choice, duties in relation to high standards and the fulfilment of every child's educational potential and fair access to educational opportunity.

35. Department for Education (DfE) Guidance for Academies wishing to make significant changes, including enlargement of their premises, was published in March 2016.
36. The Guidance can be viewed at:

<https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>
37. Academy Trusts are to exercise their own judgments in deciding whether a change is significant although the proposal set out in this report by Biggleswade Academy Trust would come within the definition of 'fast track significant change' as set out by 2016 DfE Guidance.
38. The process is overseen by the Education Funding Agency on behalf of the DfE and requires an Academy to undertake consultation, to obtain consent on behalf of the Secretary of State for Education from the Regional Schools Commissioner, advised by his Head Teacher Board, and to secure any capital required by the proposal before implementation.
39. The application submitted by Biggleswade Academy Trust to the Education Funding Agency must be rigorous enough for a decision to be made on whether the change is necessary. Details of minimum content are set out in the 2016 DfE Guidance.
40. The main legislation governing school organisation of LA maintained schools is found in sections 6A-32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
41. Department for Education Guidance for proposers and decision makers regarding school organisation in maintained schools is published to support the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
42. DfE Guidance published in January 2014 was in force on the 5 April 2016 when the Council's Executive approved the recommendation of the report to support the consultation by the Governing Body of St Andrews Church of England VC Lower School, Biggleswade.
43. As a consequence of changes introduced by the 2013 Regulations and the January 2014 Statutory Guidance, Governing Bodies were able to propose to make a range of changes to their schools without following a formal statutory process. These included significant expansion such as that proposed to St Andrews C of E VC Lower School.

44. As a result, and with the Council's support, the Governing Body of St Andrews CofE VC Lower School has complied with the requirements of that guidance and has undertaken effective consultation with parents and other interested parties, to gauge demand for the proposed change and provide consultees with sufficient opportunity to give their views.
45. On 8 April 2016 the DfE published revised guidance. This guidance can be viewed at: <https://www.gov.uk/government/publications/school-organisation-maintained-schools> and has reversed the majority of the freedoms previously available to Governing Bodies of LA Maintained Schools to make certain changes.
46. New expansion proposals that would increase a school's capacity by more than 30 pupils and 25% or 200 pupils whichever is the lesser, must now follow a statutory process as defined within the revised guidance.

Financial Implications

47. The New School Places Programme is majority funded by developer contributions and Basic Need grant income from the Department for Education (DfE) but further supplemented by funding from a number of other sources. The Council's MTFP was approved with gross expenditure of £18.2M (£0.7M net) in 16/17, £25M (net nil) in 2017/18 and £17.2M (net nil) in 2018/19 and £15M (£3.4M net) in 2019/20.
48. The DfE will not announce its allocation of Basic Need grant for 2019/20 until February 2017 at the earliest so the forecast net contribution in that year could be revised significantly.
49. On planning assumptions revised following approval of the Council's MTFP, the programme now forecasts gross expenditure of £18.3M (£4.3M net) in 16/17. The significant variance between the Council's MTFP and the revised forecast is the increase in net cost to the Council in 2016/17. This is a result of the impact of two factors; an unachievable £2M net efficiency built into the 2016/17 programme in the MTFP and reduced or delayed S106 income to the Council totalling £1.68M across the whole of its New School Places Programme in 2016/17.
50. S106 income has contributed significantly to the programme as one source of income in the past although the latest forecasts from Monitoring Officers of reduced S106 income now reflects the removal of contributions below £10k due to changes in the CIL regulations, the removal of a number of planning permissions that have now expired and most significantly a number of large developments that have been delayed, or have disputes over S106 contributions.

51. The Council's rolling five year new school places programme is dynamic with perpetual changes in forecasts of income and expenditure across financial years including those arising from variances in S106 totals and trigger points and in the timing and therefore cost profile of many projects.
52. Given the volatility in forecasts of S106 income the School Organisation and Capital Planning Team will now meet each quarter with the S106 Monitoring Officer and the outcome of these reviews and the impact on established forecasts within the MTFP will be reported through the Council's capital monitoring report.
53. All new school and expansion projects are briefed to provide buildings that are designed in line with DfE area guidelines for mainstream schools but are subjected to value engineering with resulting final construction costs at or below the national benchmarked average for new school places.
54. The capital financial implications arising from approval of the recommendations of this report are contained within the 2016/17 Gross budget approved in the MTFP. Deferring schemes to avoid or reduce the net cost to the Council in 2016/17 is not an option as it would mean delaying the provision of places that are forecast to be needed by September 2017. In 2017/18 the programme will be holding an in year unallocated balance of £13.4M and in 2018/19 it will be £8.2M. This could be utilised to offset the Council's borrowing requirements elsewhere in its capital programme in those years.
55. The Council will continue to ensure that all opportunities are taken to increase income and to seek alternative funding sources for new build and expansions of existing school buildings.
56. The day to day running costs of school provision is met through revenue funding which is made available to each school as part of the Dedicated Schools Grant (DSG) and is based primarily on the numbers of pupils attending and will increase accordingly in an expanded school.
57. Where necessary and where Schools and Academies are undertaking significant expansion on commission from the Council additional revenue support for relevant costs can be accessed on application through the DSG funded Growth Fund established by the Schools Forum.
58. Capital expenditure within the New School Places Programme is subject to the Council's Code of Financial Governance. Expenditure to commission feasibility studies and design work required for projects within this rolling programme has been approved by the Executive Member for Education and Skills, in consultation with the Director of Children's Services as required by the Council's Constitution.

Equalities Implications

59. The consultation and decision making process set out in regulation for proposals to expand Academies and Council maintained schools requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.
60. Public authorities have a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and to foster good relations in respect of the following protected characteristics: age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
61. This statutory duty includes requirements to:
- i. Remove or minimise disadvantages suffered by people due to their protected characteristics.
 - ii. Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - iii. Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
62. As proposer of the enlargement of the premises of Biggleswade Academy Trust, the Trust has considered that there are no adverse impacts on any people due to their protected characteristics from the change being proposed. Likewise, as proposer of the enlargement of the premises of St Andrews CofE VC Lower School, the School's Governing Body has considered that there are no adverse impacts that arise from the change being proposed. In fact the enlargements of the two schools will have a positive impact in terms of equality of access to education for young people.

Risk Management

63. The proposal to commission new school places and to allocate related capital investment outlined in this report implements the identified need to manage demographic growth in the previously published School Organisation Plan and mitigates the risk on the Council of failing in its statutory duty to provide sufficient school places.

Key risks include:

- Failure to discharge legal and statutory duties/guidance.
- Reputational risks associated with the non delivery of required
- Failure to secure planning consents

- Financial risks, including;
 - Non realisation of anticipated Section 106 monies and anticipated levels of government grant.
 - Potential for overspend on any project within the programme.

Appendices

The following appendices are attached:

Appendix A – Consultation materials and summary of responses - Biggleswade Academy Trust

Appendix B – Consultation materials and summary of responses - St Andrews Church of England VC Lower School

Appendix C – Business Case - Biggleswade Academy Trust

Appendix D – Business Case - St Andrews Church of England VC Lower School