Central Bedfordshire Council

Executive **7 February 2017**

Proposal to make a prescribed alteration to Robert Peel Foundation Lower School, Sandy, St Swithuns VC Lower School, Sandy and John Donne C of E Lower School, Blunham

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This report relates to a non Key Decision

Purpose of this report

1. To seek Executive approval to commence the statutory consultation required for the proposed prescribed alterations for Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower School.

2. The schools referred to within the report serve the Ward of Sandy.

RECOMMENDATION

The Executive is asked to:

1. approve the commencement of the statutory consultation process for the proposed prescribed alterations for Robert Peel Foundation Lower School, Sandy, St Swithuns VC Lower School, Sandy and John Donne C of E Lower School, Blunham.

Overview and Scrutiny Comments/Recommendations

3. This report was presented to the Children's Services Overview and Scrutiny Committee at its meeting on the 17 January 2017 and the Committee was asked to indicate its support for the recommendation set out within the report.

The Committees recommendations, which included the need to ensure that there is an overarching communication strategy for the consultation documents, are set out at Appendix C (circulated separately).

Background

4. Executive considered a report on the 11 October 2016 for the proposed change of age range at Everton Lower School in the ward of Potton. In the report the Executive were also informed that Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower School which are in the same school planning area, were also considering a change to their age range. These 3 schools have consulted on their proposal and are now required to make a prescribed alteration by following a statutory consultation. Appendix A shows the location of the 3 schools in relation to Sandy Upper School.

5. The report to the Executive on the 11 October 2016 also highlighted that Moggerhanger Lower School and Sandy Upper School were considering a change of age range but with no significant additional accommodation required on the school site. These 2 schools are therefore not required to proceed with a statutory consultation process for a prescribed alteration.

6. Prior to April 2016 as a consequence of changes introduced by the 2013 Regulations and Statutory Guidance, Governing Bodies were able to propose a range of changes to their schools without following a formal statutory process.

7. Governing Bodies were given the powers to propose and determine a proposed change but had to adhere to the usual principles of public law: they must act rationally, they must take into account all relevant considerations, and they must follow a fair procedure.

8. In April 2016, the Department of Education (DfE) revised the guidance. This can be viewed at:-www.gov.uk/government/publications/school-organisationmaintained-schools

9. The new guidance states that governing bodies of foundation and voluntary schools can still propose, consult upon and determine a change of age range of up to 2 years (except for adding or removing a sixth-form) by following the non-statutory process. A change in age range of 1 year or more for a community school would require a statutory process.

10. In light of the revised guidance, the governing bodies of Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower School consulted on a proposed change of age range for each school from 3-9 years to 3-11 years, to be implemented from September 2017.

11. The 3 schools proposed and determined their own consultations which ran from October 2016 to November 2016 and included meetings for parents and stakeholders. The consultation responses are in Appendix B.

12. The majority of the responses received in relation to the 3 consultations were in favour of the proposals. The governing bodies of Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower School determined to proceed with the change of age range for their school. The details for the determination of the proposal are in Appendix B.

13. As a result of this determination, Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower School will become primary schools with effect from September 2017, enabling their current Year 4 children to remain at the school if parents wish it and move into Year 5 if parents wish it, and the following year to Year 6.

Proposal

14. All 3 schools will be able to accommodate the additional children that choose to stay on to Year 5 from September 2017. However, the schools will not have the required long term accommodation for the children who stay on to Year 6. Additional accommodation will be required to provide for Year 6 children from September 2018.

15. The revised guidance published by the DfE in April 2016 requires the local authority to carry out a statutory consultation for those schools that are required to physically enlarge their premises due to an increase in capacity beyond a threshold as determined by the DfE.

16. The governing bodies of Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower propose to enlarge their school premises in order to accommodate Year 6 children from September 2018. This will hit the DfE's threshold which will require the local authority to carry out a statutory consultation for the 'prescribed alteration to the school premises'.

17. Moggerhanger Lower School and Sandy Upper School who also consulted on a proposed change of age range during the same period have determined to proceed but will not require additional accommodation. These schools will not be required to carry out a statutory consultation for the 'prescribed alteration to the school premises'.

18. Sandy Upper School and Moggerhanger Lower school do not require a statutory consultation for a prescribed alteration though the schools will also become a secondary and primary school respectively in 2018.

19. On the 6 December 2016 the Council's Executive approved the launch of stage 2 of the statutory consultation regarding a proposed change of age range, from 3-9 years to 3-11 years, for Everton Lower School. This is a community school and the DfE requires the local authority to propose any change of age range. If the school is given approval to change its age range the additional children can be accommodated without the need for additional accommodation.

20. The statutory consultations are planned to be launched for the prescribed enlargements of Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower on 9 February 2017 and will run until 16 March.

21. The responses received during the statutory consultation will be reported back to the Executive at their meeting on 4 April 2017 and members will be asked to determine the proposals.

22. If the determination is to approve the enlargement of each school, the governing bodies will manage the building project and be required to apply for planning permission for their proposed development, where necessary and also consider whether DfE approval is required for the change of use for school land. The 3 schools will manage the building programme and all related risks.

Reasons for decision

23. Under the School Organisation (Prescribed alternations to Maintained Schools) (England) Regulations 2013 it is a requirement of the local authority to act in accordance with the relevant legislations. The prescribed enlargements of Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower meet the DfE thresholds and require a statutory consultation.

24. The governing bodies of Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower have determined to change their age range, from lower to primary, from September 2017.

The prescribed enlargements are required to accommodate Year 6 children from September 2018. Without the additional accommodation the schools would not be able to adequately house the additional cohorts.

25. The 3 schools have consulted on the change of age range and provided evidence (Appendix B) of the support for the proposal. The requirement to consult interested parties ahead of the publication of the statutory consultation for the prescribed alteration of each school has therefore been met.

26. The statutory consultations will ensure the Council is able to meet all of the legal requirements placed on the Council by the Education and Inspection Act 2006.

Council Priorities

27. The proposal supports the following Council priority:
    - Improving Education and Skills.

Legal Implications

28. The main legislation governing school organisation is found in sections 7 -32 of the Education and Inspections Act 2006, The School Organisation (Establishment and Discontinuance of Schools) (England Regulations 2013 and the School Organisation (Prescribed Alterations to Mainstream Schools) (England) Regulations 2013.

29. DfE regulations and guidance outline the requirements and process for proposals to enlarge premises which meet the DfE threshold at Council maintained schools and these include full public consultation, the publication of statutory proposals and the decision making process. The Council is the decision maker for proposals relating to maintained schools, which are set out in this report.

30. As decision maker the Council must be satisfied that the proposals have followed due process and must also have regards to statutory guidance. Members must determine whether to:-

    - Reject the proposal
    - Approve the proposal
    - Approve the proposal with a modification (e.g. the implementation date)
    - Approve the proposal subject to them meeting a certain condition.

31. In any case the proposal must be determined within 2 months of the close of the determination period, otherwise the proposal will be referred to the schools adjudicator.

Financial and Risk Implications

32. There are no capital implications for the Council arising as a result of the proposals set out in this report. Each school has undertaken to fund the additional accommodation required from their own school budget. This is a significant financial risk for the schools which they will have to manage.

33. The day to day running costs of the school are met through revenue funding which is made available to each school as part of the dedicated schools grant, calculated on a per pupil basis. Nationally, school and academy revenue budgets are set in line with the School and Early Years Finance Regulations 2013 which uses October school census data of pupil numbers accommodated at that moment in time to calculate the budget for the following financial year, for Council maintained schools, and the following academic year for Academies.

34. Following determination by the governing bodies to change the age range of the schools, additional teaching staff will be required. The schools will recruit and advertise for new class teachers.

35. There will be a lag in funding provision to the schools for September 2017. This funding 'lag' can have a significant impact on those schools and academies that are implementing changes in age range and retaining or admitting pupils into new year groups in the following September without the corresponding revenue funding that should ordinarily follow the child which only begins to flow into the schools budget in the following April.

36. Additional funding will not be due to the schools until 2018/19 and will result in an inevitable shortfall in revenue during the transition period which the schools will have to manage.

Equalities Implications

37. The consultation and decision making process set out in regulation for proposals to maintained schools requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.

38. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

39. This statutory duty includes requirements to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

40. The proposed prescribed enlargements of the three schools are not envisaged to have an adverse impact on any of the listed groups below:-

a)	Sex	N/A
b)	Gender Reassignment	N/A
c)	Age	Primary aged pupils will have access to sufficient school places
d)	Disability	N/A
e)	Race & Ethnicity	N/A
f)	Sexual Orientation	N/A
g)	Religion or Belief (or No Belief)	N/A
h)	Pregnancy & Maternity	N/A
i)	Human Rights	(Please see articles in toolkit)
j)	Other Groups	(Rural isolation - John Donne is a rural designated school which provides school places in a village.

Risk Management

41. The proposal set out in this report has been developed and evaluated against the key criteria for decision makers that are outlined in guidance. Likewise the proposal has followed the procedures set out in regulation. This mitigates the risk on the Council of failing to comply with the relevant statutory requirements.

42. The key risks mitigated by the process that has been followed include:

- Failure to discharge legal and statutory duties/guidance.
- Failure to deliver the Council's strategic priorities.
- Reputational risks associated with the non delivery of required school places.
- Financial risks, no capital investment from the council and all consequential additional running costs will be borne by the school.

Conclusion and Next Steps

43. The recommendation is for the Executive to approve the launch of the statutory consultation for the proposal to enlarge the premises of Robert Peel Foundation Lower School, St Swithuns VC Lower School and John Donne C of E Lower School.

44. Maximum stakeholder feedback, using an overarching communication strategy for the consultation documents, will be encouraged during the representation period to enable an informed decision to be made by the Executive to approve or not the proposal to enlarge the premises.

45. The responses received during the statutory consultation will be reported back to the Executive at their meeting on 4 April 2017 and members will be asked to determine the proposals.

Appendices

The following appendices are attached:-
Appendix A: Map of the 3 schools
Appendix B: Responses to the 3 school consultations on the change of age range and note of the determination to proceed with a change of age range for the 3 schools.
Appendix C: Overview and Scrutiny Comments (circulated separately)