

**Central Bedfordshire Council**

**CHILDREN'S SERVICES OVERVIEW AND SCUTINY COMMITTEE**

Tuesday, 16 January 2018

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**The programme for the expansion of Henlow CoE Academy**

Report of Cllr Steven Dixon, Executive Member for Education and Skills, ([steven.dixon@centralbedfordshire.gov.uk](mailto:steven.dixon@centralbedfordshire.gov.uk))

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**This report relates to a decision that is not Key**

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**Purpose of this report**

This report provides a detailed overview of the rationale behind the expansion of Henlow CoE Academy, including the additional costs involved in this expansion and summary of challenges experienced in the project.

The report also provides a summary of proposed actions to mitigate such issues in the future as well as detail the ongoing progress with the expansion, including the costs relating to temporary units.

The Committee is asked to note the programme leading to the decision to expand Henlow CoE Academy and the increased capital costs.

**RECOMMENDATION**

The Committee is asked to : -

- 1** Agree the proposed mitigations identified to prevent similar issues arising in the future
- 2** Note the summary of events leading to the expansion of Henlow

**Overview and Scrutiny Comments/Recommendations**

1. Overview and Scrutiny are asked to note the contents of the report and the mitigation measures proposed.

### **Context of pupil forecasting and identified growth in the wards Arlesey, Stotfold and Langford**

1. The wards of Arlesey, Stotfold and Langford have seen considerable growth in the demand for school places across all year groups and schools in the area have been through a series of expansions.
2. To put this into context, Central Bedfordshire is anticipating significant growth in pupil numbers of approximately 9,700 new school places over the next 5 years. Such significant growth makes expansions more complicated over time and we are working with our schools to map out a more strategic picture of school place requirements over a longer time period.
3. The School Organisation Plan (SOP) is reviewed on an annual basis and provides the Council with an outline of planned changes and identifies areas where additional school places may be necessary. The latest SOP was reviewed and published in September 2017 and can be found here:  
<http://www.centralbedfordshire.gov.uk/school/organisation/place.aspx>
4. In the wards of Arlesey, Stotfold and Langford the need for further additional Middle school places was forecast from September 2017 in the 2015 SOP. At this time, the Council had secured additional middle and upper school places at Etonbury Academy (age range 9-16) as part of its new school places programme.
5. The Council had also secured verbal agreement for the additional middle school places to meet the forecast need of all the catchment children for 2017 at Etonbury Academy. Etonbury Academy is part of the BEST (Bedfordshire Schools Trust) Multi-Academy Trust.
6. The Council cannot direct academies to expand and agreement for expansions are undertaken through careful and extended negotiations and understanding of what is required with academies and their trusts.
7. Agreements with academies and trusts to provide additional school places has always been taken in good faith between all parties with a joint understanding that schools should provide places in the areas where there is the greatest basic need.

### **Key principles used in identifying schools for expansion to meet forecast growth in pupil numbers**

8. There are a number of key principles used to identify which school sites could be expanded to provide capacity for additional pupil numbers
9. This includes the key aim of Central Bedfordshire Council in providing 'local school places for local children'.
10. As a key council priority is to drive improved educational outcomes for children, the principle of only expanding schools that are Ofsted rated good and above is also adopted. No expansion is undertaken which could risk a detrimental effect on a school's standards.
11. The council also seeks to ensure that, where possible, expansions have been at maintained schools and academies where site constraints can be reasonably managed. As the need for more school places continues the options for deciding which schools to expand becomes more challenging and limited.

### **Requirement to seek expansion of Henlow CoE Academy**

12. In March 2017 the Council was informed by BEST on behalf of Etonbury Academy, that the proposed agreement for the academy to take the catchment children could have a detrimental effect on the school's good standards, as the academy was already going through a considerable expansion programme. The Council's new school places programme seeks to ensure school standards are not affected by the expansion programme and therefore the decision was made not to expand Etonbury any further. This was supported by BEST.
13. The Council has a statutory duty to ensure every child who wants a school place is offered a place. The Council's policy is to try and ensure school places are secured in the area of basic need. When places are not able to be secured in the areas of greatest need or within the school catchments further options are considered. These options include school places available at alternative schools with forecast unfilled schools places and the next nearest school with the potential to expand.
14. Schools with forecast unfilled middle school places were reviewed within the authority and considered against the Council's policy principles. The nearest schools with unfilled middle school places were in the towns of Biggleswade and Sandy. These places were in

excess of 8 miles (16 miles return) by bus and not local to the area of basic need. The places at these schools were a significant distance from the catchment and would require the Council to provide full transport costs, with this budget already under considerable pressure.

15. This option would also not meet the Council's Policy principles for ensuring school places are provided locally to the area of need.
16. The Council reviewed the next geographically nearest school to the catchment area with the potential to expand. This was identified as Henlow CoE Academy. The academy was already at the capacity of its published admission number at the time of the Council's review and had a waiting list for middle school places.
17. However, the Council progressed with discussions with Henlow CoE Academy to understand whether the school would be able to accommodate children in their catchment and the neighbouring catchment. Henlow agreed that they would seek to work with the council in expanding to meet the pupil numbers identified.
18. These negotiations would normally be undertaken much earlier to ensure a detailed brief is developed and that the necessary surveys are commissioned to secure a more robust cost envelope. Unfortunately, given the late withdrawal of Etonbury Academy from the proposed expansion of their site, this was not possible given the time constraints for offering school places and securing approval from the Council Executive.
19. As a result, a very high-level cost was therefore stated in the report which assumed a basic gym and associated classrooms, without the detailed surveys and feasibilities and early engagement with the statutory consultees for planning.
20. The expansion was approved by the Council's Executive and further work was undertaken to secure phase 1 of the expansion to allow for the 2017 cohorts and phase 2 for the 2018 cohorts. Detailed designs, surveys, feasibilities and engagement with key stakeholders were then expedited over spring and summer.

### **Challenges from town planning 'statutory consultees' requiring resolution**

21. Sports England and English Heritage were consulted on the proposed plans. Ongoing discussions with the statutory consultees continued over the summer to try and seek a compromise to the level of changes required by the consultees.

22. The request for changes were significantly over and above the high-level proposals developed for the Executive report. In the Executive report the proposal was for a sports hall and additional classrooms, highways works and remodelling. Negotiations also continued with the academy on the proposed designs and options. Due to the time constraints of the expansion and the need to ensure the programme for delivering the accommodation, required at the academy for August 2018, further appeals to the changes in design by Sports England and English Heritage would have delayed the build programme and the date programmed for the Council's Development Management Control meeting scheduled for September.
23. The significant changes to the original proposal as set out in the Executive report included a curved roof for the sports hall, a change to the material finish of the buildings, an additional changing block, additional highways works and an additional court demanded by the Academy. The pre-tender cost estimates of these changes were £3.6m in total.
24. The Council is a commissioner of school places only and is required to secure the best possible resolution to a forecast deficit of places within the policy principles as agreed by Executive. Academies have the ability to refuse expansions needed by the Council to meet its statutory duty. In order to secure additional places negotiations with academies can be challenging with the School Trusts. School Trusts need to be convinced that the provisions proposed provide the best education provisions for the students. Whilst temporary accommodation is an option in terms of class bases and is often less costly, School trusts consider these to be less robust than a permanent build. Insisting school expansions consist of only temporary class bases creates an additional challenge in negotiations and if unsuccessful leaves the Council unable to meet its policy principles and its statutory duty.
25. The cost of one double mobile temporary building at Henlow Academy is circa £200,000. This excludes fitting and furniture and removals. To provide the same number of class bases as in the permanent build solution would be circa £400,000. Whereas the permanent build equivalent is circa £510,000. The investment of a permanent build future proofs the school and provides class bases in an area of potential future growth. There is no provision for the sports hall to be provided in modular form as it is not technically possible.

**Suggested mitigations identified to prevent such issues arising in the future**

26. The Council has undertaken a review of the circumstances leading to the emergency item being requested at the Council's Executive and the emergency meeting called for Children's Services and Overview Committee to ensure this is avoided in the future.
27. The Council is proposing that all future new school places commissioned are underwritten by a development agreement well in advance of when the places are required. This will form part of the contractual arrangements of the expansion and will provide all parties with clarity of their obligations. This is a legal document which will ensure that all parties fulfil their commitment. It will seek to include penalty clauses if parties do not fulfil.
28. The Council will undertake early feasibilities and surveys where possible to understand full costs and undertake detailed analysis of options and discussions with Trust as soon as practical to avoid the same situation occurring again.

#### **Procurement of the capital works**

29. The proposed works (which are below the EU threshold) have been procured by Henlow Academy under a restricted tender process. Four suitably-qualified contractors attended an initial interview. All tendering organisations demonstrated their capability having a track record of delivering projects of a similar value and of a similar nature in educational settings. References (by means of a reference visit) were taken up for the selected tendering organisation.
30. The requirements for the works have been specified in their entirety such that, based on the invitation to tender, tendering organisations were able to deliver a fully priced tender without the need for any negotiations following receipt of the tender. The basis of award of the contract was on value for money, defined as "the best mix of quality and effectiveness for the least outlay".
31. A number of construction and project risks were identified and every effort has been made to mitigate these. The most significant project risk is that of inclement weather causing delays to brick and blockwork construction. A risk register is being maintained.
32. The procurement is in line with nationally agreed obligations and regulations. A period of over 30 days was provided for tendering organisations to prepare their tender submission. There is no requirement to provide a standstill period (between the selection of the tendering organisation and the issue of contract documentation) as this is a below-threshold procurement. Borrás Construction Ltd provided the lowest compliant tender.

33. The preferred contractors, Borrás Construction Ltd have started work on site. The construction programme is on track with the delivering of the class room block for 20<sup>th</sup> August 2018 and the sports hall for October 2018.

### **Council Priorities**

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

### **Legal Implications**

35. 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.
36. Failure to secure the expansion of the Henlow site would have left the LA vulnerable to the requirements in the Education Act.
37. 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.
38. Department for Education (DFE) Guidance for Academies wishing implementation.

### **Financial Implications**

39. There are no financial decisions required in this report. However, Executive approved the additional capital costs of £3.6m for the expansion.

### **Risk Implications**

40. The expansion set out in this report mitigates the risk on the Council of failing in its statutory duty to secure sufficient school places for the authority.
- Key risks 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 childcare and early year's places.
- Risk of not achieving forecast numbers of children impacting the financial viability of the main school budget.

## Equalities Implications

41. The 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.

42. 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.

43. This statutory duty includes requirements to:

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

44. The school expansion is not envisaged to have an adverse impact on any of the listed groups below:-

• Sex	N/A
• Gender Reassignment	N/A
• Age	Children will have access to sufficient school places
• Disability	N/A
• Race & Ethnicity	N/A
• Sexual Orientation	N/A
• Religion or Belief (or No Belief)	N/A
• Pregnancy & Maternity	N/A
• Human Rights	N/A
• Other Groups (rural isolation etc)	N/A



## **Conclusion and next Steps**

- 45. The decision by Etonbury Academy to withdraw its support to the proposed expansion left the council with key challenges in providing sufficient pupil numbers for local children in the area.
- 46. This significantly restricted the timescales in developing clear, costed proposals to meet identified need. Following a review of this process, officers would recommend the following: -
- 47. All future new school places commissioned by the Council are underwritten by a development agreement well in advance of when the places are required.
- 48. This will form part of the contractual arrangements of the expansion and will provide all parties with clarity of their obligations.

## **Appendices**

None

## **Background Papers**

None

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