

Meeting: Executive
Date: 10 December 2013
Subject: Determination of Statutory Proposal to Expand Pulford Voluntary Aided Church of England Lower School

Report of: Cllr Mark Versallion, Executive Member for Children's Services

Summary: The report sets out the statutory proposal of the Governing Body of Pulford Voluntary Aided (VA) Church of England (CofE) Lower School to expand the school from its current capacity of 150 places to 225 permanent places with a proposed implementation date of September 2014. The proposal has been the subject of a statutory consultation and the statutory notice period has now concluded requiring the Council to consider any representations received and to determine the outcome of the proposal.

Advising Officer: Edwina Grant, Deputy Chief Executive/ Director of Children's Services

Contact Officer: Karen Oellermann, Assistant Director, Commissioning and Partnerships

Public/Exempt: Public

Wards Affected: Leighton Buzzard South

Function of: Executive

Key Decision: No

CORPORATE IMPLICATIONS

Council Priorities:

In providing new school places for growing communities this report supports the following Central Bedfordshire Council's strategic priorities:

Educating, protecting and providing opportunities for children and young people
Managing growth effectively.

Financial:

1. The total capital cost of implementing this proposal is estimated at £490k inclusive of fees. In bringing forward the proposal the Governing Body of this Voluntary school is responsible for ensuring that it has secured sufficient capital to implement it, if approved. The school is the beneficiary of the Pulford Foundation which has given a commitment to financial support to deliver the expansion programme.

2. The day to day running costs of expanded provision, including increased teaching and non teaching staffing levels, is met through revenue funding which is made available to each school as part of the dedicated schools grant, calculated on a per pupil basis.
3. The school's proposal to expand its provision is intended to meet increased parental demand for places at the school. The school has acknowledged that it is not therefore eligible to apply to the Growth Fund established by the School Forum to support growing schools as this is only available where the Council has commissioned new places (basic need) to meet demographic pressures, rather than changes driven by parental preferences. The school may however be eligible to apply to the Growth Fund for dedicated schools grant support in order to comply with Infant Class Size legislation.
4. There are no capital or revenue funding implications for the Council arising from this proposal.

Legal:

5. 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 2007 and the School Organisation (Prescribed Alterations to Mainstream Schools) (England) Regulations 2007.
6. Section 19(3) of the Education and Inspections Act 2006 enables the Governing Body of this Voluntary school to propose certain prescribed alterations, including its expansion, and to publish their proposals by statutory notice. The Council is however decision maker for this proposal.
7. The Department for Education (DfE) regulations outline the requirements and process for proposals to expand maintained schools and these include full public consultation, the publication of statutory proposals and the decision making process. Decision makers must be satisfied that proposals have followed due process and must also have regard to statutory guidance.
8. As decision maker for the statutory proposals outlined in this report, the Council must determine whether to approve the proposed changes within two months of the close of the determination period on 14 October 2013, otherwise the proposals must be referred to the schools adjudicator.
9. In addition to the Governors and Trustees of the school, the following bodies may appeal against the Council determination of the proposal in this report:
 - The local Church of England diocese.
 - The bishop of the local Roman Catholic diocese.

Any appeals must be submitted to the Council within 4 weeks of the decision and the Council must refer the matter to the schools adjudicator.

10. A new building consisting of three class rooms is proposed. There will additionally be extra group space, toilets and offices. A full planning proposal was submitted to Central Bedfordshire Council and subsequently approved on the 16 August 2013.
11. The proposal includes a change of use for the north edge of the playing field which is currently in the Council's ownership. This is proposed to be the site of the new class room block.
12. Under the School Standards & framework Act 1998 and The Schools Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 the Council is required to transfer land other than playing fields which is held by the local authority for the purposes of the school to the trustees of the voluntary aided school. 'Land' includes the building structures attached to it.
13. In addition, Section 77 of the School Standards and Framework Act 1998, as amended by Schedule 1 of the Academies Act 2010, requires Secretary of State consent for any proposed change of use of school playing fields. As a result, in approving this proposal the Council will be required to seek this consent, and the approval will need to be subject to it being granted.
14. Therefore, if the proposals are approved and Secretary of State consent secured, the land on which the new buildings will be sited, in addition to an area of land previously built upon to enlarge the school, will be transferred from Central Bedfordshire Council to the Pulford Foundation as illustrated in the plan at Appendix A. The land is to be held by the trustees of the school for the purposes of the school.
15. In this regard the transfer is not discretionary or a matter for the Council to approve but is required by legislation.

Risk Management:

16. This report outlines the Council's obligation as decision maker, to ensure that relevant regulation has been followed in bringing forward the proposal, that the consultation and representation processes have been conducted correctly and that any representations have been considered in the final determination of the proposal.

Key risks mitigated by the report include:

- Failure to discharge legal and statutory duties/guidance.
- Reputational risks associated with the non determination of statutory proposals.

17. Contract and construction risks will be overseen through the school's project management of the approved project.

Staffing (including Trades Unions):

18. Staff and Trades Unions have been consulted by the School's Governing Body on its proposals to expand the school as part of the initial consultation and statutory process required by regulations.
19. The school will have the support of its own Human Resources provider to advise on any required changes in school staff structures or to terms and conditions of employment. The school may also need to consider its Governance arrangements given the enlarged size in future.
20. The school will need to increase the numbers of teaching and non-teaching staff to support the increase in pupil numbers. This will be funded through the school's Dedicated School Grant budget and the increased share which the school will receive as pupil numbers grow.

Equalities/Human Rights:

21. 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.
22. 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.
23. The consultation and decision making process set out in regulation for proposals to expand maintained schools requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.
24. As decision maker for this proposal, the Council has considered that there are no race or disability discrimination issues that arise from the changes being proposed. The key objective of the proposal is to provide additional places to meet proven additional demand from parents preferring a faith based education at the school but unable currently to be accommodated. The school has also carefully considered the impact on provision for children with special educational needs and disabilities in the construction designs that have been developed in parallel to the statutory process.

Public Health:

25. The school currently provides a range of extended school services which can be further developed as a result of the growing school population and capital investment.

26. The range of extended services that may be provided more effectively in larger schools includes:
- Parenting and family support officers.
 - Transition support for pupils, schools and families.
 - Combined clubs and after school activities.
 - Holiday activities.
 - Support for vulnerable pupils and families i.e. siblings group and young carers.

Community Safety:

27. Whilst it is acknowledged that schools have an important role under Section 17 of the Crime and Disorder Act 1998 to work alongside a range of other agencies to ensure safety in their local communities, the expansion of the school in this report does have the potential to increase community safety issues around the school's location. Inconsiderate parking, low level anti social behaviour, noise, litter etc. These are issues that can, in some instances, have a significant impact on residents living in the school vicinity and place additional demand upon the services responsible for dealing with them. To meet its statutory duty in relation to crime and disorder the Council will need to work with the school to ensure that community safety issues are considered and appropriate measures are put in place to mitigate any risks with regard to community safety issues in the area.

Sustainability:

28. Whilst there may be additional costs in order to meet sustainability objectives for expansion of the school, these will be contained within the costs already identified in this report. These measures will contribute to reduced running costs through better energy and resource efficiency and also create a better learning environment for the pupils.

Procurement:

29. The tendering and approval process for awarding construction contracts will be in accordance with the DfE Procurement Guidance for Voluntary Aided schools.

Overview and Scrutiny:

30. This report has not been considered by Overview and Scrutiny as it reflects a proposal made by the Governing Body of a Voluntary Aided School, which now requires Executive determination.

RECOMMENDATIONS:

The Executive is asked to:

- 1. note that the procedures established by The Education and Inspections Act 2006 (EIA 2006) and The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (as amended by The School Organisation and Governance (Amendment) (England) Regulations 2007 and The School Organisation and Governance (Amendment) (England) Regulations 2009, have been complied with in bringing forward the proposal outlined in this report;**
- 2. note that no representations were received by the Council to the statutory notices as set out in Appendices B, issued on 16 September 2013 under Section 19(3) of the Education and Inspections Act 2006 for Pulford VA CofE Lower School; and**
- 3. approve the statutory proposal to expand Pulford VA CofE Lower School from a 1 form of entry (150 place) lower school for pupils aged 4+ to 9, with 25 Nursery places to a 1.5 form of entry (225 place) lower school catering for pupils aged 4+ to 9 with 25 Nursery places with effect from September 2014, increasing the schools planned admission number from 30 to 45, subject to Section 77 consent being granted by the Secretary of State by 1 February 2014 for the change of use of an area of existing playing field.**

<i>Reason for Recommendations:</i>	<i>To determine the outcome of the statutory proposals following the close of the representation period on 14 October 2013. If the Council were to fail to decide these proposals within 2 months of the end of the representation period it must forward proposals, and any received representations, to the schools adjudicator for decision.</i>
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Executive Summary

31. The purpose of this report is to provide the Council's Executive with sufficient information and guidance to enable the determination of the proposal to expand a voluntary aided lower school that has been subject of statutory consultation.
32. The report sets out the background to the proposal and the process that has been followed to date, aligned with the statutory requirements set out in legislation and DfE guidance for proposals of this nature.
33. The report concludes with a recommendation to approve the proposed expansion, with an implementation date of 1 September 2014.

Proposal and Statutory Process

34. In accordance with the Education and Inspections Act 2006, the proposal constitutes a significant expansion of the existing school and therefore required both statutory consultation and a further representation period through the publication of Statutory Notices.

35. On 13 May 2013 the Governing Body of Pulford VA CofE Lower School commenced a four week period of statutory consultation and published a consultation document to seek views from stakeholders on its proposal to enlarge the permanent capacity of the school. The consultation document set out the objectives of the proposal which focused primarily on addressing the over subscription that the school has seen in recent years, particularly from parents seeking faith based provision, by providing additional permanent accommodation.
36. The school's initial consultation document is attached to this report at Appendix B along with a summary of responses gathered by return of its questionnaire and through meetings that were arranged with staff, union representatives, Governors and the public which together indicated significant support for the proposal, including that of the Pulford Foundation and of the CofE Diocese of St Albans.
37. The only issues of concern that arose were from three local residents and related to increased traffic and parking concerns. These were addressed through the subsequent Planning application which has now received the Council's approval and by the introduced use of parking permits in the local area. The statutory consultation period closed on the 17 June 2013.
38. The DfE guidance advises that at the end of the statutory consultation period the proposer (i.e. the School's Governing Body in this instance) should consider the views expressed during that period before reaching any final decision on whether to publish statutory proposals. The School's Governing Body considered the responses at its meeting on the 21 June 2013 and determined to progress to the service of statutory notices for a further representation period of four weeks.
39. A copy of the statutory notice is attached to this report at Appendix B. The proposal does not amend the school's current admission policy.
40. The representation period commenced on 16 September 2013 for a four week period to 14 October 2013. The consultation was conducted to meet the requirements set out in the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2007 (as amended).
41. No representations were received within this period.

Determination of Statutory Proposal

42. As decision maker, the Council's Executive must be satisfied that the proposal has followed due process and must have regard to guidance issued by the Secretary of State.
43. Before judging the respective factors and merits of the statutory proposal, the Council's Executive must consider four key issues. These are:
 - Is any information missing?
 - Does the published notice comply with statutory requirements?
 - Has the statutory consultation been carried out prior to the publication of the notice?
 - Are the proposals "related" to other published proposals?

44. The statutory notice was published on 16 September 2013 with information prescribed by regulation. The information was complete, clear and complied with statutory requirements. The statutory notice and prescribed information is attached to this report at Appendix B. A summary of the outcomes of the statutory consultation that was carried out prior to the service of statutory notices is also provided within that Appendix. The proposal is not related to any other, is independent and capable of being determined without preventing or undermining the implementation of any other published proposal.
45. The proposal has not arisen as a result of the Council's need to commission new school places to meet statutory demand in the area but is a proposal by the school's Governing Body to meet parental preferences for faith based provision. As a result, the Council's Policy Principles for Pupil Place Planning do not apply to the evaluation of this proposal and it is DfE guidance, issued by the Secretary of State that must be considered by decision makers on proposals of this nature. The guidance is clear on the range of factors although not exhaustive, that should be taken into account although all proposals should be considered on their individual merits. The following sections therefore focus on the factors most relevant to this proposal.
46. A system shaped by parents – The findings of the statutory consultation indicated significant support and parental demand for the proposed expansion of the school.
47. Standards – The Council's aim of enabling the expansion of popular and successful schools is reflected in this proposal as the school is oversubscribed and rated by Ofsted as Outstanding in 2010.
48. Need for places – Although the additional permanent places proposed in this report are not being commissioned by the Council to meet its statutory obligations to provide sufficient school places, they are being proposed by the school in part to address an unmet demand in the area for faith based provision.
49. Travel and Accessibility for all – Section 76 of the Education and Inspections Act 2006 places a duty on local education authorities to promote the use of sustainable modes of travel to meet the school travel needs of their area.
50. The school already has an approved travel plan which will be updated to reflect its proposed increased capacity and to outline the actions they will be taking to encourage sustainable travel and to ensure any negative travel and transport issues are minimised. The Council's sustainable transport team are able to help support this review process and provide guidance as to the actions that should be put in place.
51. Funding and land – Capital costs have been identified to implement the proposal and the required construction works will be funded from a financial contribution from the Pulford Foundation. As outlined earlier in the report, the new building required to implement the proposal will be located on an area of playing field currently freeheld by the Council but required to be transferred to the Pulford Foundation if the proposal is approved.

52. The school is not providing additional external hard space and will not therefore meet the guidelines for such areas as previously set out in BB99 nor the number of internal classroom spaces which would normally be expected. The school's proposals to address this are set out in its stated objectives within the prescribed information attached at Appendix B.
53. Views of interested parties – The DfE guidance is clear that the decision maker should consider the views expressed during the initial statutory consultation and the statutory representation period, following publication of the statutory public notices. In doing so the Executive should not simply take account of the numbers of respondents expressing a particular view but instead give the greatest weight to representations from stakeholders likely to be most directly affected by the proposals.
54. No responses were received within the statutory 4 week representation period relating to the proposal to expand Pulford CofE VA Lower School.

Determination

55. In considering the proposals the decision maker may decide to reject, approve or to approve with modifications (e.g. the implementation date) the proposal set out in this report. In either case, the reasons for the final decision must be carefully recorded indicating the main factors considered and the reasons for the decision. A copy of the final decision must be forwarded to a range of bodies specified in guidance.
56. Having followed the procedure required by regulation and in consideration of the key issues and factors for decision makers set out in guidance it is recommended that the proposals to expand Pulford CofE VA Lower School as set out in this report and published by Statutory Notices issued on the 16 September 2013, be approved with an implementation date of 1 September 2014, subject to Section 77 consent being granted by the Secretary of State by 1 February 2014 for the change of use of an area of existing playing field.

Appendices:

Appendix A – Site plan of Pulford VA CofE Lower School indicating areas of land on which buildings are to be located and are to be transferred to the Pulford Trust.

Appendix B – Consultation document, summary of responses received, Statutory notice and prescribed information for proposal to expand Pulford VA CofE Lower School

Background Papers: (open to public inspection)

None