

Central Bedfordshire Council

EXECUTIVE

6 October 2015

Determination of Proposal to Commission New Middle School Places in Leighton Buzzard

Report of: Cllr Mark Versallion, Executive Member for Education and Skills
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Advising Officer: Sue Harrison, Director of Children's Services
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Key Decision

Purpose of this report

1. To report the outcome of the consultation undertaken with the support of the Council by the Governing Body of Leighton Middle School on the proposal to provide new middle school places from September 2016. The school referred to within the report serves the Wards of Leighton Buzzard South, Leighton Buzzard North, Linslade, Eaton Bray, Heath and Reach.
2. To provide the Council's Executive with the school's business case for expansion and to recommend approval of the proposal and commencement of the capital project.
3. To delegate authority to the Director of Children's Services, in consultation with the Executive Member for Education and Skills, to approve contractual arrangements to undertake the required capital works for the proposed project within this report.

RECOMMENDATIONS

1. **to approve the proposal to expand Leighton Community Middle School from a 4 form of entry (480 place) middle school for pupils aged 9 to 13 to a 5 form of entry (600 place) middle school for pupils aged 9 to 13, increasing the school's published admission number from 120 to 150 with effect from 1 September 2016, thereby approving the commencement of the project and related expenditure, subject to the grant of planning permission under Part 3 of the Town and Country Planning Act 1990 by 1 January 2016; and**

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| <p>2. delegate authority to the Director of Children’s Services, in consultation with the Executive Member for Education and Skills, to approve contractual arrangements to undertake capital works required to deliver the proposed project in this report.</p> |
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Children’s Services Overview and Scrutiny

4. On the 15 June 2015 Children’s Services Overview and Scrutiny Committee were consulted on a draft report to the Council’s July Executive which set out the background of forecast demographic growth in Leighton Linlade from September 2015. The report provided a recommendation to support the commencement of consultation on the proposed expansion of Leighton Community Middle School.
5. The Committee indicated its support for the recommendation to commence consultation and Committee members were subsequently provided with the consultation documents produced by the school’s Governing Body.

New Middle School Places in Leighton Buzzard

6. On the 7 July 2015 the Council’s Executive received the report setting out the background of forecast demographic growth in Leighton Linlade from September 2015.
7. The Executive considered the report and approved the recommendation to support the commencement of consultation by the Governing Body of Leighton Community Middle School to expand from its current capacity of 480 places to provide 600 places from September 2016.
8. The Executive also invited the school to prepare a business case to illustrate how its expansion would comply with the Council’s Policy Principles for Pupil Place Planning in Schools.
9. In response to the Executive decision, the school’s consultation commenced on the 8 July. Consultees included;
 - Leighton Middle School Staff
 - Leighton Middle School governors
 - Local residents
 - General public
 - Head teachers of all Leighton Buzzard & Linlade Schools
 - Head teachers and Chairs of Governors of all other Central Bedfordshire schools and academies
 - All CBC Ward Members
 - Leighton Linlade Town Council
 - The Church of England and Roman Catholic Dioceses
 - The local MP.

10. Consultation materials and the school's summary of responses received are attached at Appendix A to this report. A public meeting was also facilitated by the school, Council officers and members of the architectural design team and a press release was published in the local newspaper.
11. The consultation concluded on the 7 August 2015 and received 82 responses in total of which 75 respondents indicated support.
12. Although the majority of respondents to the proposal were supportive, those that were not raised concerns in relation to transport, the proximity of the school to the current area of housing development to the south east of the town, the impact it may have on the character of the school, the timeframe for the expansion project and the potential disruption of construction works.
13. If the proposed expansion is approved, the construction programme will be defined in partnership with the school to minimise any disruption to the education of children currently attending Leighton Middle. The character of the school, both in educational and architectural terms will be protected and enhanced by the design of new facilities that take account of educational principles and the desire to reinforce and align with the curriculum model currently in place.
14. The Council's Conservation Officer and other Planning Officers have been engaged throughout the feasibility and design stages of the proposal and their input will ensure that the new build is sympathetic and minimises impact on the conservation area within which the school is located and the town centre.
15. Leighton Middle School serves a catchment area that includes the housing growth area in the south east of the town. Throughout the consultation it has been made clear that it is increases in the local demographic that is driving the need for more school places and these local children could walk, although parents may chose to drive as a result of work or other family commitments.
16. Section 508A of the Education Act 1996 (as amended by the Education and Inspections Act 2006) places a duty on local Councils and on schools through their own Travel Plans, to promote the use of sustainable transport on the home to school journey. The School's Travel Plan is currently being revised as is ordinarily a requirement of the process to secure planning approval for any school expansion.
17. The new Travel Plan would be implemented to reduce the number of vehicle trips to the school site by encouraging and/or developing alternative travel options and to raise awareness about travel issues such as air pollution and road safety.

18. The Council's Highways Officers have assisted in the development of the proposal and a range of highways measures will be proposed to improve necessary vehicle and pedestrian routes to the school site. A traffic impact assessment has also been commissioned to inform the mitigation measures that will be recommended. These will support the planning application that will be submitted for the proposal, if the recommendation of this report is approved by the Council's Executive.
19. The School's Governing Body has provided its own reaction in Appendix A to the main issues that arose from respondents that were not in support of the proposed expansion. The business case that the Governing Body has also prepared attached at Appendix B also reflects on related issues.
20. On conclusion of the consultation, and in consideration of the matters arising, the School's Governing Body has confirmed its support for the proposal and continues to work with the Council in developing the design proposal for the new facilities.

Reasons for Decision

21. The proposal set out in this report represents the commissioning of new school places required by the Council to ensure it continues to comply with its legal obligation to meet the needs of the local demographic.
22. The proposal and consultation has followed the process required by DfE guidance on Governing Body proposals to make changes to maintained schools.
23. The School has submitted a business case which has been evaluated by Council officers and is provided at Appendix B attached to this report. The proposal complies with the Council's Policy Principles for Pupil Place Planning in Schools and the school's ambition is aligned with the Council's Partnership Vision for Education 2015-2019.
24. If approved, the project will be procured through a design and build contract but is already indicated at Royal Institute of British Architects Plan of Works Stage 4 to be able to be fully externally capital funded through the Council's New School Places Programme, as set out in the financial implications section of this report.

Council Priorities

25. The report supports Central Bedfordshire's Medium Term Plan: Delivering your priorities – Our Plan for Central Bedfordshire 2012- 2016 and the specific priority of Improved Educational Attainment.

Legal Implications

26. 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.
27. 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.
28. The main legislation governing school organisation is found in sections 6A-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. Department for Education Guidance for proposers and decision makers regarding school organisation in maintained schools was published in January 2014 to support the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
30. This guidance can be viewed at:
<https://www.gov.uk/government/publications/school-organisation-maintained-schools>
31. As a consequence of changes introduced by these 2013 Regulations (at Schedule 2, paragraph 12) and Statutory Guidance, Governing Bodies are now able to propose to make a range of changes to their schools without following a formal statutory process. These include significant expansion such as that proposed to Leighton Middle School.
32. Governing Bodies are required 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. The Governing Body of Leighton Middle School has liaised closely with the Local Authority and has been supported throughout the consultation with parents and other interested persons, to gauge demand for the proposed change and provide them with sufficient opportunity to give their views.

33. The Governing Body must have complied with its duty to ensure that it has suitable accommodation and to secure capital funding. If approval for commencement of the project and related expenditure is given by the Council Executive, it must ensure that it obtains any consents necessary for making changes to land and buildings, including Planning consents, before the changes can be implemented. Once the changes have been implemented, the Governing Body must inform the Secretary of State.
34. The relevant officers have confirmed that the Council has complied with the legal process with regard to the proposals set out in this report and the information supplied supports this position.

Financial Implications

35. The New School Places Programme is funded by developer contributions and Basic Need grant income from the Department for Education (DfE) although the Council's approved programme also reflects a significant capital contribution that the Council would be required to provide from its own resources of approximately £2.1M in 2015/16, £7.3M in 2016/17, £3.5M in 2017/18 (reduced from £18.3M following the DfE announcement in late February 2015 of the Basic Need allocation to the Council for 2017/18) and £11.8M in 2018/19.
36. The revenue implications of the forecast expenditure (MRP and Interest) based on the approved programme and assuming that spend will occur evenly in each year is £97k in 2015/16, £517k in 2016/17, £970k in 2017/18 and £1,652k in 2018/19.
37. The Council's School Organisation Plan has now been subject to its annual review and the New School Places Programme has likewise been reviewed. The outcome of this exercise now forecasts a revised programme 2015/16 to 2018/19 with gross expenditure of £25.7M (nil net) in 15/16, £17M (£1.4M net) in 2016/17, £37.7M (3.7M net) in 2017/18 and £29M (£17M net) in 2018/19.
38. The DfE allocation of Basic Need for 2018/19 will not be known earlier than February 2016. However, on the basis of the methodology used by the EFA to calculate the 2017/18 allocation of Basic Need Grant and our current growth forecasts, the Council may expect to receive an allocation of Basic Need Grant in 18/19 of approximately £17m, which is £11m more than is currently assumed within the programme.
39. 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.

40. 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.
41. 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.
42. 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 Children's Services, in consultation with the Director of Children's Services as required by the Council's constitution.

Procurement

43. The tendering and approval process for awarding the construction contract will be in accordance with the Council's Code of Procurement Governance and the thresholds indicated in section 5 of the Council's constitution.
44. The expansion of Leighton Community Middle School will be procured through a NEC – C Target Cost contract and the project will be managed by the Council's Assets Team.
45. A delegation is proposed to the Director of Children's Services, in consultation with the Executive Member for Education and Skills, to approve contractual arrangements to undertake capital works required to deliver the proposed project in this report.

Equalities Implications

46. The consultation and decision making process set out in regulation for proposals to expand Council maintained schools requires an evaluation on a project by project basis of any equalities and human rights issues that might arise.
47. 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.

48. 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.
49. As commissioner of the new school places that will be provided through the proposal of Leighton Middle School the Council has considered that there are no discrimination issues that arise from the change being proposed.

Risk Management

50. The proposal to commission new middle 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 of failing to implement the School Organisation Plan and the New School Places Programme 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.
- Inability of schools to recruit suitable additional staff
- 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 documents and summary of responses

Appendix B – Business case