

Commissioning new school places in the ward of Stotfold through the delivery of a new extended secondary Free School (Pix Brook Academy)

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This report relates to a decision that is Key

Purpose of this report

1. To seek approval for the release of land (subject to planning) for the new Pix Brook Academy Free School and for the Council to manage the delivery of the build on behalf of the DfE. The construction of Pix Brook Academy is to be funded by the DfE through the free school programme. It is envisaged that the high level cost of the construction of the school to be in the region of £24m from the DfE. Subject to Executive approval and an approved business case the Council expects the full cost of delivering the new free school to be met by the DfE.
2. The school referred to within the report is in the ward of Stotford.

Context

3. Pix Brook Academy will be extended secondary free school as approved by the DfE to meet a need for school places from 2019. This application was submitted by the BEST Trust with the support of the Council. The free school requires a site for the school and it is proposed, subject to planning that the new school be located within the Stotfold Ward, see map Appendix B. The construction of the new free school is proposed to be managed by the Council and BEST.

RECOMMENDATIONS

The Executive is asked to:

- 1. approve the release of land (subject to planning) for the new free school and for the Council to deliver the new free school on behalf of the DfE; and**
- 2. authorise the Director of Community Services, in consultation with the Director of Children's Services to enter into all appropriate legal documentation to implement the scheme including the building contract and ancillary documents, funding agreement, development agreement, Academy lease and all contracts required to secure delivery and operation of the new school.**

Overview and Scrutiny Comments/Recommendations

- 4. A report was presented to Children's Services Overview and Scrutiny Committee at its meeting on 21 November 2017 and the Committee were asked to indicate their support for the recommendations. The views of the Committee will be reported to Executive at its meeting.**

Pupil Place Planning in the ward of Stotfold

- 5. In April 2017, the Secretary of State for Education confirmed that the application for a free school submitted by the Bedfordshire Schools Trust (BEST) to establish Pix Brook Academy should proceed to the next stage of the free school's process – the "pre-opening phase".**
- 6. The application was supported at the time by the Executive Member for Education and Skills. The 2017 forecast this planning area shows a significant deficit of middle school places. The basic need for additional school places is from 2019/20.**
- 7. The Council has expanded Etonbury Academy in 2015 (phase 1) and Executive approved the phase 2 expansion for 2017 to create additional middle and upper school places to meet the basic need in the area. During 2017 Henlow Church of England Academy (middle school) is being temporarily expanded to meet a basic need for 2 years. The school expansion programme for the area has significantly grown to meet a basic need. Even with the expansions the forecast is additional places will still be required.**
- 8. Pix Brook Academy will be a 9 to 16 extended secondary free school. The academy is planned to open in September 2019. The academy will be co-educational. The educational offer will follow national guidelines but complement the curriculum offered at the other BEST academy in the area, Etonbury Academy, to maximise choice.**

9. The DfE have approached the Council to secure a site for the new school. No S106 education land has been secured through developer's contributions in the area that is large enough to accommodate the new school. The DfE have sought to secure council land for the new school. Council officers are engaged with the DfE, BEST and the Education and Skills Funding Agency (ESFA) to progress site plans for the new free school. A parcel of land on the preferred site for the new free school has been identified, see appendix B, 'land north of Arlesey Road, Stotfold.
10. The preferred site forms part of the Council's freehold estate subject to a Farm Business Tenancy. Whilst compensation will be payable to the farm tenant to recover possession of the land for the Free School and notice to recover part will need to be served, the notice period is only 6 months from the date of grant of planning permission and compensation will be negotiated via Bidwells, the Council's Agents, in the usual way. Reasonable effort will be sought to ensure the value of the Council's land is recovered and if the land can revert back to the Council if the school site is not required in the future through a covenant. It is expected as part of the planning that community use will be provided at the school.
11. The Council's Executive approved that all new and expanded schools should seek to meet the standards set by BB103 Building Bulletin for schools and it is envisaged that the preferred site will require 13 ha. The site will be subject to further feasibility studies and survey which are being undertaken now. Whilst this is the preferred site it is subject to planning. Alternative sites have been reviewed where available and the preferred site remains the most achievable for the programme and potentially best value for the ESFA.
12. In order to secure the DfE approval for the school site a business case will be submitted outlining the case for the preferred site. It is envisaged that the DfE will be contributory on deciding the final site. This is based on the cost effectiveness and deliverability of the site as assessed by the ESFA.
13. Subject to Executive approval, the Council and BEST will offer to build the school for the DfE. Traditionally free schools have been built by commissions through the ESFA. It has become common for free schools to be built by the Council. This has happened in Hertfordshire, Sutton, London Borough of Ealing, Hampshire, Peterborough, Norfolk and Suffolk. The Council is usually better placed locally to understand the geography and needs of the local school community. The Council has already established a reputation for delivering school places and is well placed to offer the self build option. The successful delivery of Pix Brook Academy will enhance the Council's chances of future self build free school projects.

14. The construction of the free school by the Council and BEST will give more control of the design, programme, risk management and planning. The Council has officers experienced with the design and build of schools. To enable the self build the Council will need to submit a business case to the DfE.
15. Based on the ESFA cost model the Council could expect to receive in the region of £24m from the DfE towards the construction of the new free school. This is based on the ESFA delivering the same school. The success of the free school application is envisaged to reduce the total gross cost to the Council. The Council will seek to understand the full cost of the scheme by undertaking early feasibilities and surveys to inform the negotiations with the ESFA.

Legal Implications

16. 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.
17. 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.
18. 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) Regulations 2013 and the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
19. Department for Education guidance for proposers and decision makers regarding school organisation in maintained schools was published in April 2016 to support the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013.
20. This guidance can be viewed at:
<https://www.gov.uk/government/publications/school-organisation-maintained-schools>

21. The guidance for prescribed alterations, published by the Department for Education (DfE) in April 2016, requires local authorities to undertake a statutory process for proposed expansions of maintained schools that meet a specified threshold. Although the requirement for a 2 stage consultation process has been removed (i.e. both pre statutory and statutory) the DfE expects that the local authority will consult interested parties to develop the statutory proposal prior to publication.
22. The local authority is expected to ensure that there is 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, when required.
23. The Council will need to ensure that the new accommodation is suitable and the necessary capital funding and planning permission have been secured before the expansion can be implemented.
24. Department for Education (DfE) guidance for academies wishing to make significant changes, including enlargement of their premises, was published in March 2016.
25. The Guidance can be viewed at:
<https://www.gov.uk/government/publications/making-significant-changes-to-an-existing-academy>
26. Academy Trusts are required to exercise their own judgments in deciding whether a change is significant, although it is anticipated that the proposals come within the definition of 'fast track significant change' as set out by 2016 DfE Guidance.
27. The process is overseen by the Education and Skills Funding Agency on behalf of the DfE and requires an academy to undertake consultation, to obtain consent of the Secretary of State and to secure any capital required by the proposal before implementation.
28. The business case submitted to the Education and Skills Funding Agency by an academy 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.
29. In both cases there are statutory and processes for consultation and applications which, if the proposals are agreed, must be followed to ensure the proposals can be implemented when required.

Reason/s for decision

30. The forecast for lower and middle school places in the school planning areas show a deficit of school places to meet the basic need in the area. Without the additional places local children will not be able to access a local school.
31. Ward Councillors have been offered briefings on the Council's forecasts of demographic growth and the need to plan for additional school places in the school planning area.
32. In addition to Section 14 of the Education Act 1996, the Council's Policy principles states the need to provide local schools for local children, the need to create schools that are of sufficient size to be financially and educationally viable and the ability to support the expansion of local popular and successful school.

Council Priorities

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

Financial and Risk Implications

34. The New School Places Programme is funded by developer contributions and Basic Need grant income from the Department for Education (DfE) and on current planning assumptions the programme gross expenditure is £14.1M (net nil) in 2017/18, £4M (net nil) in 2018/19, £8.5M (net nil) in 2019/20 and £12.3M (net nil) in 2020/21.
35. The construction of Pix Brook Academy is to be funded by the DfE through the free school programme. It is envisaged that the high level cost of the construction of the school to be in the region of £24m from the DfE. Subject to Executive approval and an approved business case the Council expects the full cost of delivering the new free school to be met by the DfE. The cost will be based on the ESFA cost model. The council are undertaking early feasibility studies to understand the site and potential costs.
36. 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.
37. 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.

38. In order to support expansions commissioned by the Council, the school is eligible for additional revenue support for related costs funded through the Dedicated Schools Grant, Growth Fund, established by the Schools Forum.
39. Capital expenditure within the New School Places Programme is subject to the Council's Code of Financial Governance.
40. Pix Brook Academy will be funded through the DfE free schools programme and in agreement with the ESFA.
41. There is therefore no net cost to the Council for the project.

Equalities Implications

42. 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.
43. 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.
44. 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.
45. The proposal 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

Risk Management

46. The proposals 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.

Conclusion and next Steps

47. Subject to Executive approval, officers will engage with the DfE and ESFA to pursue the release of the land required for the free school and the business case for self-delivery of the school.

Appendices

The following appendices are attached:

Appendix A – Map of the proposed site for Pix Brook Academy

Background Papers

None

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