

HERTFORDSHIRE COUNTY COUNCIL
RESOURCES & PERFORMANCE CABINET PANEL
FRIDAY 5 JULY 2019 AT 10.00 AM

Agenda Item No.

11

**TO CONSIDER THE FUTURE OF LAND AT LONDON ROAD BISHOPS
STORTFORD: RELOCATION AND EXPANSION OF THE BISHOP'S
STORTFORD HIGH SCHOOL**

*Joint Report of the Director of Resources and the Director of Children's
Services*

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1. Purpose of report

- 1.1 To invite Members to consider and make recommendations to Cabinet on:
- a) the County Council assuming Local Delivery of the Priority Schools Building Programme 2 (PSBP2) scheme for The Bishop's Stortford High School (TBSHS) that will enable the relocation and expansion of TBSHS at a new site within the Bishops Stortford South (BSS) development area,
 - b) associated contractual arrangements, and
 - c) amending the basis of the County Council's financial support for the scheme.

2. Summary

- 2.1 Cabinet in February 2018 approved the addition of the scheme for relocation and expansion of TBSHS within the terms set out in the accompanying Part II report. In February 2019 the County Council approved the Integrated Plan and within the capital programme included provision for capital funding support for the scheme.

- 2.2 Subsequently, the Department for Education (DfE) decided that its PSBP2 award to the School with a time limited capital grant, and associated resources support for the scheme, should be switched to Local Delivery by the County Council.
- 2.3 The largest part of the capital funding for the relocation scheme is from the sale of the existing school site for housing redevelopment and the Cabinet's decision in February 2018 was with the expectation that there could be, contemporaneous with a new premises construction contract, a contract for forward sale of the existing site, so that all capital funding could be known and be secure before the final step is taken to award the new premises works contract.
- 2.4 Cabinet had authorised in principle, in July 2016, acquisition of the new site, that an agreement be made with the Governing Body of Thorley Hill Primary School for the necessary reorganisation of that school's site, and that an agreement be made with the Governing Body of TBSHS for the relocation and expansion scheme, and it delegated approval of the terms for these agreements to the Director of Resources in consultation with the Executive Members.
- 2.5 A conditional contract for acquisition of the new site has been concluded; East Hertfordshire District Council (EHDC) has resolved to grant planning permission for development of the whole BSS area, to include the relocated secondary school, a primary school and 750 houses. Planning permission for housing redevelopment of TBSHS's existing site is expected to be granted during 2019, and procurement of the new school premises is in hand.
- 2.6 A sale of the existing site has been sought, there is interest from several housing developers, a lead bidder has been identified and it is anticipated that a forward sale can be concluded by the end of 2019, when a decision to award a construction contract for the new premises needs to be made so that the time limited DfE grant can be expended and the new school premises be available for occupation during the academic year 2021/22.
- 2.7 Use of the new school depends upon the primary highway and utilities infrastructure for the BSS area being constructed and available for use by the opening date of the new school premises. It is possible that the County Council may need to step in to provide this infrastructure, under the commercial arrangements contained in the land acquisition contract, should the promoter of the BSS development not have been able to achieve its own programme to commence development, all so that the target dates for the new school premises and expenditure of the DfE grant can be met.
- 2.8 Owing to housing land market conditions, there is a risk that a forward sale of the exiting site will not be available by the end of 2019, and as the DfE grant has to be expended by 31 March 2021 it is appropriate to

consider contingent arrangements so that the County Council could cover the risk of a delayed sale by assuring delivery of the scheme and the inward investment of the DfE grant, based on the security of the value of the existing school site.

3. Recommendations

3.1 The Panel will be invited to recommend to Cabinet:-

That Cabinet authorises:

- a) A capital budget for the scheme for relocation and expansion of The Bishops Stortford High School as set out in the report, to include feasibility expenditure to date and which covers the cost of the standard County Council specification for premises having a capacity of 6 forms of entry with 8 forms of entry core facilities and the costs of the associated minor projects, in the sum of £45.31m;
- b) The capital funding sources that are to be relied upon, being the PSPB2 grant from the DfE, the capital receipts from the sale of the existing Bishops Stortford High School site and s106 planning obligations, and the gap capital funding of £7.8m to be met from basic need;
- c) The capital receipts from the sale of the existing Bishops Stortford High School be protected by the County Council requiring that the sale be joint with the School, that a caution be placed on the titles and that no sale be agreed until the Secretary of State for Education has given consent in writing to the sale and to the sale proceeds being remitted to the council; and
- d) The Director of Resources, as S151 officer, to provide a Capital Contributions Letter to the DfE in respect of all capital funding for a relocation and expansion scheme beyond the Priority School Building Programme (PSBP2)grant.

4. Background

4.1 At the meeting on 19 February 2018 Cabinet considered a report on Additional School Places (agenda item 12) and resolved:

“(xi) the addition of the scheme for relocation and expansion of The Bishops Stortford High School within the terms set out in Part II of this report.”

4.2 Those terms envisioned:

- a) A DfE capital grant of £11.2m;

b) A contract being concluded for acquisition of the new site within the BSS development area;

c) A new Local Plan being adopted by East Herts District Council (EHDC) and planning permissions being granted for the new school premises and for housing re-development of the existing site;

d) A forward sale of the existing school site being arranged so that use of the capital receipts to fund the relocation and expansion scheme could be assured;

e) A minor prior reorganisation of the existing sites of the school and the adjacent Thorley Hill Primary School (THPS), to ensure a coherent sale site, and the provision of an additional building (a Learning Resource Centre) for THPS;

f) Relocation of The Blues Pre-School (The Blues) from its existing premises within the site of TBSHS to a site owned by the County Council at Cox's Gardens, Bishops Stortford, in a new building to be developed there as part of the scheme;

g) An Infrastructure Agreement being made with the Landowners of the new site and Countryside Properties (Countryside) as developers of the BSS area, that provides for a financial contribution to be made to the construction of common infrastructure works that will serve the new development area; and

h) The relocation and expansion scheme being largely self-financing, taking into account the funding sources of the capital receipts from the sale, the DfE grant, and s106 planning obligations that could be directed to the scheme.

4.3 The current position in respect of the scheme is that capital programme support for the scheme has been included within the Integrated Plan for 2019/20 to 2022/23; and the progress on the key matters above is as follows:

a) The DfE has decided the new premises should be the subject of Local Delivery by, and transfer of the grant to, the County Council; the grant needs to have been spent by 31 March 2021.

b) A conditional land purchase contract was concluded in the summer of 2018; the conditions are that (i) planning permission has been granted; (ii) an Infrastructure Agreement is made and (iii) the TBSHS has a Funding Agreement in place with the County Council to secure the new premises;

c) i) The new East Hertfordshire District Plan was adopted in the autumn of 2018 and at the meeting of the (East Herts) District

Council's Development Management Committee on 20 March 2019 the Committee resolved to grant planning permission to Countryside, in outline for the scheme of development for the whole of the BSS area and in detail for the first phase of housing and the main north-south spine road and associated infrastructure works; and

- ii) A separate planning application has been submitted for development of the new school premises and the main north-south spine road and associated infrastructure works, to provide a contingent route to assure delivery should Countryside not succeed in obtaining and implementing its planning permission by early 2020;
- iii) A planning application is being prepared for submission by TBSHS to EHDC for housing redevelopment of the modified existing site;
- d) TBSHS has undertaken a marketing campaign to seek to secure a forward sale of that site and has identified a lead bidder. The current position is advised in the report on the Part II agenda;
- e) Terms have been agreed with the Governing Body of THPS for the reorganisation of the site, for the provision of the additional building and associated matters; and planning permission has been granted for that building;
- f) A planning application has been submitted for the development of new premises for The Blues at the Cox's Garden's site and terms have been agreed with The Blues and TBSHS for the relocation of The Blues once the new premises have been completed;
- g) Terms have been agreed with the Landowners and Countryside for the Infrastructure Agreement; and
- h) Current estimates for the scheme are contained in the report on the Part II agenda.

4.4 The new site is within the BSS area that is allocated in the Local Plan for a residentially led mixed use development including a primary school and a secondary school. An application for planning permission for development in conformity with the Local Plan allocations has been made – reference 3/18/2253/OUT Land At Bishops Stortford South (BISH5) Off Whittington Way Bishops Stortford – and a resolution to grant planning permission, subject to conclusion of a s106 Planning Obligations agreement, has been passed as cited above at para 4.3 c).

4.5 The application is hybrid, with most of the scheme the subject of outline proposals and detail for the main initial site infrastructure and the first phase of housing. The new site, which is about half a mile south of the

existing site, is shown marked by darker mauve colour on the Illustrative Concept Masterplan for the BSS area at Appendix 1.

- 4.6 The development also includes provision for a primary school, and the site allocated is shown by light mauve colour on that plan. It is to be the subject of a s106 planning obligation for ownership to transfer to the County Council to enable the provision of additional primary education places. It is anticipated that it will be capable of development at 3 forms of entry (fe) capacity.
- 4.7 Primary roads and utilities infrastructure for the development, specifically the north south spine road with new junctions at either end, as are shown on the plan at Appendix 1, is required before the new school can be occupied.
- 4.8 Information regarding the land arrangements is contained in the report on the Part II agenda.

5. Future demand for secondary places

- 5.1 The County Council's strategy to ensure a sufficient number of secondary places across the area is to establish a new 6fe secondary school within the Bishops Stortford North new housing development to serve the rising need from the existing community as well as the need arising from that new community.
- 5.2 It is anticipated that further secondary capacity beyond the new 6fe school is likely to be required to meet demand across the area in the longer term. Current pupil demand forecasts indicate the new school at Bishops Stortford North will be full by 2027 when forecast demand peaks beyond the 6fe additional capacity that this new school provides. Pupil forecasts only extend 10 years into the future, beyond which the children requiring a secondary place are not yet born. However, the secondary pupil yield arising from the new housing at Bishops Stortford North is anticipated to peak beyond the lifecycle of the current forecast and the strategic housing growth targets within EHDC's District Plan which will provide for further housing growth across the area extend to 2031/2032. Therefore, the County Council needs to prudently plan additional secondary capacity across the area to ensure future long-term need, beyond the lifecycle of the current forecast, can be met.
- 5.3 A scheme for enlargement of the Herts & Essex High School to 6fe has been supported by the County Council and additional land has been secured, that is sufficient for that school to be able to expand up to 8fe, should that be needed. The new site for TBSHS is also capable of supporting 8fe capacity premises, should that be needed.
- 5.4 Enlarged site capacities for both schools, as indicated above, would increase potential options available for expansion of existing schools across the area. The conclusions round a strategy to expand existing

schools would be determined by local conditions, if-and-when a future expansion is required, taking account of costs and availability of funding at that time.

- 5.5 An education statement has been provided to accompany the School's planning application and that is attached at Appendix 2 to the report.

6. New premises development

- 6.1 The DfE has concluded that the County Council is better placed to enable the development of the new premises, as the School is a Foundation category of maintained school and there are complex land arrangements at both the existing and new sites. It has agreed Local Delivery by the County Council, that it remits the grant to the Council and it puts in place a light touch reporting and monitoring agreement. An initial Memorandum of Understanding (MoU) has been completed.

- 6.2 Fundamental to that agreement is the DfE's requirement that the grant is committed and wholly spent by 31 March 2021.

- 6.3 Key principles of the MoU are:

- a) The council will take responsibility for delivering the PSBP scheme to time and budget;
- b) The PSBP capital funding contribution will remain capped at £11.26m;
- c) The DfE will provide a Local Delivery Project Delivery Grant up to £200k towards the reasonable costs incurred to develop the school project feasibility appraisal and business case(s);
- d) The County Council will be responsible to appoint and pay its own consultants to undertake the delivery work through the feasibility, procurement and construction phases; and
- e) The project will be monitored and supported by a DfE project lead.

- 6.4 Procurement of the new premises under Local Delivery will proceed under one of the available framework construction contracts available to the County Council, guided by contractor availability and best value considerations.

- 6.5 To assure expenditure of the DfE grant and new premises opening by the target date of September 2021, it will be necessary for works to commence in Spring 2020. Before the new premises contract can be let there must first have been let a contract for the primary infrastructure so that is available for use when the school relocates.

- 6.6 It is anticipated that Countryside Properties (CP), will have committed to begin development of its BSS development by the end of 2019, with works starting on site in January 2020.
- 6.7 However, should there be significant delay to CP's programme it would be necessary to invoke the contingent arrangements in the new site acquisition contract, for the County Council to assure timely delivery of the infrastructure works. It is proposed that would be done via an arrangement with CP, for it to work as the County Council's delivery organisation, so that there is seamless delivery of the works and a single chain of responsibility via appropriate contractual arrangements.
- 6.8 To assure there can be delivery of these works by the County Council, in advance of CP beginning development, works they will be included in the separate planning application to be made jointly by the School and County Council for the new school development. That form of planning application, for joint development by the School and County Council, is required to be made to the County Council and is determined by the County Planning Authority.

7. Town Planning Implications

- 7.1 The BSS development area has been allocated for development in the East Hertfordshire District Plan, as has the existing site of TBSHS. The Cox's Gardens site has an existing policy allocation for community use.
- 7.2 Accordingly, each the planning permission that is required to establish the programme of projects to enable the scheme has a clear policy basis that can support the planning application and the decision to be made by the relevant planning authority.
- 7.3 To reduce programme risk, each project site, and the disposal site, should have been granted at least outline planning permission for the intended new use prior to works contracts being let.

8. Financial Implications

- 8.1 The proposals can be supported from the DfE grant, the capital programme provisions and from s106 planning contributions that can be directed to the scheme. There is also included in the capital programme provisions for the associated works for THPS and to relocate The Blues Pre-School.
- 8.2 Contingent provision has been included for the BSS main infrastructure works, so that they can be undertaken in the contingent circumstances advised at paragraph 6.8.
- 8.3 Detailed financial information is contained in accompanying Part II report.

9. Risk Assessment

- 9.1 If the County Council does not act swiftly to support the current opportunity to put in place arrangements to secure additional school land and replacement school premises it may lose the opportunity to commission additional places at an existing popular and successful school serving an area where there is forecast demand for a large number of additional places.
- 9.2 Consideration of individual risks and of mitigation is set out in the Part II report.

10. Equalities

- 10.1 When considering proposals placed before Members it is important that they are fully aware of, and have themselves rigorously considered the Equality implications of, the decision that they are making. Rigorous consideration will ensure that proper appreciation of any potential impact of that decision on the County Council's statutory obligations under the Public Sector Equality Duty. As a minimum this requires decision makers to read and carefully consider the content of any Equalities Impact Assessment (EqIA) produced by officers.
- 10.2 The Equality Act 2010 requires the County Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics under the Equality Act 2010 are age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief, sex and sexual orientation.
- 10.3 An Equalities Impact Assessment (EqIA) has been carried out to assess the proposed school relocation and expansion contained within this report. The EqIA is attached to this report as Appendix 3 It will be made available in the Members' Lounge prior to, and at the Panel and Cabinet meetings in order that Members are fully aware of any equality issues arising from the proposal. Consideration has been given to the likely impact of the proposal, and current assessments conclude that it is not anticipated that people with protected characteristics will be affected disproportionately. The EqIA will be continued to be reviewed and updated as necessary.
- 10.4 The Local Authority is bound by the Admissions Code and Regulations and this does not allow for any discrimination in this respect.
- 10.5 The proposal provides brand new buildings on a new site under 2 miles from the existing site, designed to meet all current Disability

Discrimination Act (DDA) and accessibility requirements. This will provide positive impacts, offering the opportunity for improved facilities for disabled access in new buildings.

- 10.6 The proposal will facilitate an expansion in places of 0.8fe immediately and will also enable a further 2fe of expansion potential to be secured for the future. This would bring the number of Boy's single sex places in line with the 6fe of Girls single sex places now on offer at the Herts & Essex High School (with 2fe of expansion potential in the future) thereby providing equity in the single sex offer across the area, while also contributing towards meeting the rising demand anticipated across the area for the long term.

Background Information

Cabinet – 11 July 2016

<https://democracy.hertfordshire.gov.uk/CeListDocuments.aspx?Committeed=146&MeetingId=405&DF=11%2f07%2f2016&Ver=2>

Cabinet – 19 February 2018

<https://democracy.hertfordshire.gov.uk/CeListDocuments.aspx?Committeed=146&MeetingId=422&DF=19%2f02%2f2018&Ver=2>

County Council – 19 February 2019

<https://democracy.hertfordshire.gov.uk/ieListDocuments.aspx?CId=216&MId=214&Ver=4>

EHDC Development Management Committee – 20 March 2019

<http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=118&MId=3348&J=2>