

**FREE SCHOOL PROPOSALS**

*To:* **Children and Young People Committee**

*Meeting Date:* **6 December 2016**

*From:* **Wendi Ogle-Welbourn Interim Executive Director:  
Children, Families and Adults Services**

*Electoral division(s):* **ALL**

*Forward Plan ref:* **n/a** *Key decision:* **No**

*Purpose:* **To advise the Committee of the latest situation regarding current free school proposals submitted directly to the Department for Education (DfE)**

*Recommendation:* **Members are asked to note and comment on the current position with regard to applications submitted directly to the DfE to establish free schools in Cambridgeshire.**

| <b><i>Officer contact:</i></b> |  |
|--------------------------------|--|
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## **1.0 BACKGROUND**

- 1.1 There are currently two application windows annually, in March and September respectively, for potential sponsors to submit free school proposals directly to the DfE. Officers understand from conversations with the DfE that March 2017 is anticipated to be the last opportunity this parliament for potential sponsors to submit free school applications.

## **2 CURRENT CENTRALLY PROCESSED FREE SCHOOL BIDS (WAVE 11)**

- 2.1 Since the Children and Young People (CYP) Committee met on 12 July 2016 officers have received confirmation that the following free school applications made directly to the DfE are to proceed to the next stage:

- Chatteris Free School: a mainstream 3-11 primary (including nursery provision) for 420 pupils proposed by the Active Learning Trust (ALT);
- Alconbury Weald Church Academy: a mainstream, Church of England faith designated, 11-18 secondary school for 1680 pupils, proposed by the Diocese of Ely Multi Academy Trust (DEMAT).

- 2.2 The pre-opening stage is the period between the approval of the free school application and when the free school opens. During this phase the free school proposer will finalise plans, develop policies (including admissions arrangements) and undertake a statutory consultation. The latter must happen before the Secretary of State for Education will enter into a funding agreement with the relevant Trust. It is for the respective Trust to determine at what point to commence consultation.

### **2.3 Alconbury Weald Church Academy**

- 2.3.1 On the 28 September 2016 a group of officers and Members met with DEMAT to discuss their proposal. The issues covered included:

- opening date
- size and age range
- delivery of the capital project

- 2.3.2 A second meeting took place that same day between DEMAT, officers and representatives from the Education Funding Agency (EFA) and LGSS Law. The main points of discussion were:

- the delivery of the capital project
- funding implications given that the Council had already secured this through a signed s106 agreement with the developer and Huntingdonshire District Council

- 2.3.3 DEMAT were amenable to a later opening date than 2018 which had been part of their proposal, whereas the earliest the school would be required by the Council to meet basic need requirements would be 2020/21. A further meeting is scheduled to take place on 23 November 2016.

- 2.3.4 The EFA indicated that they would be happy for the Council to deliver the capital project. The EFA also agreed to look into the funding for the post-16 element of the proposal as the S106 funding which the Council had negotiated with the developer was on the basis of providing an 11-16 secondary school, without sixth form.

## **3 WAVE 12 FREE SCHOOL APPLICATIONS**

- 3.1 The DfE has received 15 applications from potential sponsors to open new free schools in Cambridgeshire under Wave 12 which closed on 28 September 2016.

## 4 LOCAL AUTHORITY–COMMISSIONED SPECIAL FREE SCHOOLS

- 4.1 A review in 2013 of capacity in the Council's seven area special schools means that the Council needs to create three new area special schools by 2022, each providing approximately 100 places and a further two schools by 2025. Work is well advanced on the first area special school which will be co-located with a new secondary school in Littleport. Both are scheduled to open in September 2017 and will be run and managed by the ALT. Co-location is the Council's preferred model.
- 4.2 The preferred locations for two other area special schools are the proposed new town of Northstowe and at the new development of Alconbury Weald. Plans are in place to launch the sponsor search for this new school in January 2017.
- 4.3 In October the DfE published guidance regarding a new process for Local Authorities to advertise new special free schools they would like to commission. This is in addition to the free school presumption route.
- Councils submit expressions of interest to the DfE (by 11 November 2016) describing the new free special school which they would like to commission
  - the DfE will publish a national list (probably December 2016) with a single national deadline (spring 2017) inviting potential sponsors to apply for those schools which they would like to run.
- 4.4 Unlike with the centrally delivered mainstream free school route, local authorities would assess proposers' applications resulting from the competition and recommend their preferred proposer to the Secretary of State.
- 4.5 Where a proposal is successful, capital costs for building (or refurbishment) will be provided by the DfE together with, a small revenue grant to cover the school's start-up costs, in the same way as for schools set up through the standard central free school route. This is currently between £220k and £300k before opening, £170k post-opening for leadership and a small per-pupil amount to help with other costs.
- 4.6 Officers have taken the decision not to pursue this route for commissioning the special schools it requires at Northstowe and Alconbury Weald as it is expressly not designed for co-located special schools and is for circumstances '*where local authorities feel a new special school would be **beneficial** to the landscape of provision in the area i.e. the places could be provided by other means such as school expansions or out-of-county provision. That is different from cases where a school is **needed**.*' Instead it is proposed to use the free school presumption competition route and/or the centrally commissioned route whereby potential sponsors apply directly to the DfE to open a free school.

## 5 EVALUATING PROPOSALS FOR CENTRALLY DELIVERED FREE SCHOOLS

- 5.1 Following the closing date for applications the DfE invites local authorities to submit their views on the proposals, although as there is no obligation on potential sponsors to share their applications, these can only be high level. Comments submitted in response to the 15 applications related principally to the proposed opening dates, location (not all applications have an identified site), size, whether or not these schools would be required to meet basic need for school places and concerns where the applications are at odds with the Council's strategic planning for the provision of school places in the towns/developments targeted.
- 5.2 Officers recognise the wish expressed by CYP Committee for there to be continued Member scrutiny and comment on free school applications made directly to the DfE.

However, on 31 October at a meeting between the Regional Schools Commissioner (RSC) Tim Coulson, two representatives of CYP Committee, the County Councillor for Sawtry and senior officers, it was clarified and confirmed that the DfE has its own process for assessing applications and makes the final recommendation to the Secretary of State as to which applications should be approved to proceed to the pre-implementation stage.

- 5.3 The RSC acknowledged that the Local Authority voice is currently absent from the DfE's assessment panel process and undertook to raise this with the DfE to explore whether it would be possible for representation from the Council on future panels. There was also discussion over representations also being made to this effect through the Local Government Association. In the light of this discussion, the conclusion reached was that it was not productive, therefore, for the Council to continue to undertake its own assessment.
- 5.4 The joint officer/ Member assessment panel will still feature as part of the Council's sponsor selection process where it runs a competition to seek a sponsor for a new school.

## **6 ALIGNMENT WITH CORPORATE PRIORITIES**

### **6.1 Developing the local economy for the benefit of all**

- 6.1.1 Providing access to local and high quality education and associated children's services should enhance the skills of the local workforce and provide essential childcare services for working parents or those seeking to return to work. Schools and early years and childcare services are providers of local employment.

### **6.2 Helping people live healthy and independent lives**

- 6.2.1 If pupils have access to local schools and associated children's services, they are more likely to attend them by either cycling or walking rather than through local authority-provided transport or car. They will also be able to access more readily out of school activities such as sport and homework clubs and develop friendship groups within their own community. This should contribute to the development of both healthier and more independent lifestyles.

### **6.3 Supporting and protecting vulnerable people**

- 6.3.1 Providing a local school will ensure that services can be accessed by families in greatest need within its designated area.

## **7 SIGNIFICANT IMPLICATIONS**

### **7.1 Resource Implications**

- 7.1.1 Where new schools are commissioned via the free school presumption process local authorities are responsible for all the start-up and post-opening costs, including diseconomy of scale costs, funding for which may be needed over a number of years. Given this burden of revenue expenditure, the Council will only consider commissioning new schools where there is no possible alternative.
- 7.1.2 Special Schools are funded on the Place-Plus methodology. This provides schools with £10,000 per commissioned place as agreed with the EFA for Pre and Post-16 numbers. It is then the responsibility of the home local authority to provide Top-Up funding based on the individual needs of the learners in line with their Education Health and Care Plan

(EHCP).

- 7.1.3 Once the number of places for each academic year has been agreed this provides a minimum core budget for the school and as such there is no diseconomies funding for Special Schools. The Top-Up funding is based on participation and as such will only be payable directly by the pupil's home local authority for the period of time each pupil is in attendance.
- 7.1.4 The Government have recently started a consultation process on the future funding arrangements for schools. Following the first stage of this process there are still significant areas of uncertainty in respect of funding for new schools and as such the implications detailed below are based on current legislation and processes.
- 7.1.5 Where new free schools are centrally delivered, that is via application to the DfE, where there is no basic need requirement, revenue start-up costs are met by the DfE. Construction costs are also met centrally by the DfE although future basic need allocations will be adjusted to take account of the additional capacity created. Local authorities are still required to meet the post-opening diseconomies funding.

## **7.2 Statutory, Legal and Risk**

- 7.2.1 Where the Council has negotiated the land for a new school through s106 agreements and/ or the land is in the Council's ownership, the Council will grant a standard 125 year Academy lease of the whole site (permanent school site) to the successful sponsor based on the model lease prepared by the DfE as this protects the Council's interest by ensuring that:
- The land and buildings would be returned to the Council when the lease ends.
  - Use is restricted to educational purposes only.
  - The Trust is only able to transfer the lease to another educational establishment provided it has the Council's consent.
- The Trust (depending on the lease wording) is only able to sublet part of the site with approval from the Council.  
If the EFA or the Trust acquires the land the above approach would not apply.

## **7.3 Equality and Diversity**

- 7.3.1 The Council is committed to ensuring that children with special educational needs and/or disability (SEND) are able to attend their local mainstream school where possible, with only those with the most complex and challenging needs requiring places at specialist provision.
- 7.3.2 The accommodation provided for delivery of early years and childcare and primary and secondary education will fully comply with the requirements of the Public Sector Equality Duty and current Council standards.
- 7.3.3 As part of the planning process for new schools, local authorities must also undertake an assessment of the impact, both on existing educational institutions locally and in terms of impact on particular groups of pupils from an equalities perspective.

## **7.4 Engagement and Communications**

- 7.4.1 All new school projects, whether initiated by the Council or via the central DfE process, are subject to a statutory process which includes public consultation requirements.

## 7.5 Localism and Local Member Involvement

7.5.1 Local members are always invited to take part in the joint officer/member panel to assess new school proposals when these are conducted under the Council's established new school sponsor selection competition process.

## 7.6 Public Health

7.6.1 It is Council policy that schools:

- should be sited as centrally as possible to the communities they serve, unless location is dictated by physical constraints and/or the opportunity to reduce land take by providing playing fields within the green belt or green corridors;
- should be sited so that the maximum journey distance for a young person is less than the statutory walking distances (3 miles for secondary school children, 2 miles for primary school children)
- should be located close to public transport links and be served by a good network of walking and cycling routes
- should be provided with Multi-use Games Areas (MUGAs) and all weather pitches (AWPs) to encourage wider community use of school

7.6.2 There is also an expectation that schools will provide access to and use of the school's accommodation for activities, for example sporting, cultural and outside of school hours.

| Source Documents  | Location   |
|---|--|
| The Free School Presumption: Departmental advice for local authorities and new school proposers. February 2016<br><a href="https://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption">https://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption</a>   | Clare Buckingham<br>0-19 Place Planning & Organisation Service         |
| Local Authority-Commissioned Special Free Schools. Departmental Guidance for local authorities interested in commissioning a special free school. October 2016<br><a href="https://www.gov.uk/government/publications/special-free-schools-commissioned-by-a-local-authority">https://www.gov.uk/government/publications/special-free-schools-commissioned-by-a-local-authority</a> | Octagon 2 <sup>nd</sup> floor<br>OCT1213 ,<br>Shire Hall,<br>Cambridge |
| New School Funding Policy 2016/17   |  |

| <b>Implications</b>   | <b>Officer Clearance</b>                                     |
|---|--|
|   |  |
| <b>Have the resource implications been cleared by Finance?</b>                            | Yes<br>Name of Financial Officer:<br>M Wade (CYP) 14/11/2016 |
|   |  |
| <b>Has the impact on Statutory, Legal and Risk implications been cleared by LGSS Law?</b> | NO RESPONSE<br>Name of Legal Officer:<br>Lynne Owen          |
|   |  |
| <b>Are there any Equality and Diversity implications?</b>                                 | Yes<br>Name of Officer:<br>CFA Service Director              |
|   |  |
| <b>Have any engagement and communication implications been cleared by Communications?</b> | Yes<br>Name of Officer: Simon Cobby<br>(09/11/2016)          |
|   |  |
| <b>Are there any Localism and Local Member involvement issues?</b>                        | Yes<br>Name of Officer:<br>CFA Service Director              |
|   |  |
| <b>Have any Public Health implications been cleared by Public Health</b>                  | Yes 15/11/2016<br>Name of Officer: Tess Campbell             |