

Public Document Pack

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06 March 2024

Dear Member,

Performance and Finance Scrutiny Committee - Friday, 8 March 2024

Please find enclosed the following documents for consideration at the meeting of the Performance and Finance Scrutiny Committee on Friday, 8 March 2024 which was unavailable when the agenda was published.

Agenda No	Item
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| 5. | Additional budget allocation for delivery of the new Secondary School at Brookleigh, Burgess Hill (Pages 3 - 12) |
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These documents were delayed to allow them to go through the governance process.

Yours sincerely

Tony Kershaw
Director of Law and Assurance

To all members of the Performance and Finance Scrutiny Committee

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Performance and Finance Scrutiny Committee

8 March 2024

Additional budget allocation for delivery of the new Secondary School at Brookleigh, Burgess Hill

Report by Director of Law and Assurance

Summary

In July 2022, the then Cabinet Member for Learning & Skills approved funding for the delivery of a new Secondary School at Brookleigh (formerly known as Northern Arc) in Burgess Hill, to provide 900 pupil places to the Burgess Hill area and include a Special Support Centre ([LS04\(22/23\)](#) refers).

Since then, inflationary and other pressures have increased the total estimated cost of the project and additional funds are now required for it to be completed. Approval will therefore be sought for an additional budget allocation to enable the delivery of the Bedelands Academy Secondary School project.

The decision will be taken by the Cabinet Member for Children and Young People, Learning and Skills in March 2024.

Focus for scrutiny

The Committee is asked to scrutinise the additional budget allocation prior to decision by the Cabinet Member for Children and Young People, Learning and Skills (as set out in the report attached at Appendix 1). Key areas for scrutiny include:

- (1) That the project's total cost and budget uplift is realistic, represents good value and can be managed as planned in the decision report
- (2) That proposals for s106, Homes England and other sources to contribute to the funding of the project are appropriate.
- (3) That sufficient resources are available to monitor and manage the procurement and contract and support the development's implementation
- (4) To consider the risks and seek assurance of the effectiveness of actions planned to manage these, to include any for monitoring by the Children and Young People's Services Scrutiny Committee
- (5) That the local members have been consulted and informed of proposals

The Chairman will summarise the output of the debate for consideration by the Committee.

Details

The background and context to this item for scrutiny are set out in the attached report (listed below), including resource and risk implications, Equality, Human Rights, Social Value, Sustainability and Crime and Disorder Reduction Assessments.

As this decision relates to future education provision, members of the Children and Young People's Services Scrutiny Committee (CYPSSC) have been invited to comment on the proposal. The CYPSSC Chairman will be invited to report any feedback received at the Performance and Finance Scrutiny Committee meeting.

Tony Kershaw

Director of Law and Assurance

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Appendices

Appendix 1 - Draft Decision Report – Additional budget allocation for delivery of the new Secondary School at Brookleigh, Burgess Hill

Background papers

None

Report to Cabinet Member for Children and Young People, Learning and Skills

March 2024

Additional Budget Allocation for the new Secondary School at Brookleigh, Burgess Hill (Bedelands)

Report by Lucy Butler Director for Children Young People and Learning and Lee Harris Director of Place Services

Electoral divisions: Burgess Hill East; Burgess Hill North; Cuckfield & Lucastes; Hassocks & Burgess Hill South; Haywards Heath East; Haywards Heath Town; Hurstpierpoint & Bolney; Lindfield & High Weald

Summary

Homes England has secured outline planning permission for a new 3500 home development on land known as Brookleigh, Burgess Hill. As part of the plan, a site for a new Secondary School has been provided to ensure sufficient secondary school places to serve the development. A financial contribution of £18.159m has been secured through Section 106 Agreements to contribute towards the construction costs of the new school. An academy sponsor for the new school has been confirmed.

Secondary school places in the Burgess Hill area are already under pressure, with local secondary schools having agreed to take additional pupils through bulge classes.

The need for additional pupil places is predicted to grow year on year and an additional 120 places are required from September 2026 onwards, with additional places being required every year thereafter for the foreseeable future.

Following design development and delays in progressing the project an uplift to the approved budget is now required to progress the delivery of the scheme. The proposed date for completion is for the school to open in September 2027.

Recommendations

The Cabinet Member for Learning and Skills is asked to approve the following:

- (1) That an additional £16.94m is identified for the delivery of the new Secondary School at Brookleigh, Burgess Hill.
 - (2) That the procurement process for the appointment of a construction partner proceed with a view to a decision on letting the contract in August 2024.
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Proposal

1 Background and context

- 1.1 The County Council has a statutory duty to provide sufficient primary and secondary school places for all children who need a place.
- 1.2 Homes England has secured outline planning permission for a new 3500 home development on land known as Brookleigh, Burgess Hill. As part of the overall plan, a site for a new secondary school, to include a 16 place Special Support Centre has been provided to ensure sufficient secondary school places to serve the development.
- 1.3 Pupil place projections indicate a demand for 120 additional secondary school places in the Burgess Hill area in 2026 and that demand will continue for the foreseeable future. Current pupil projections which include Homes England's housing trajectory of the number of pupils who will be living in properties within the development indicate a requirement for a 6-form entry (6FE) 11-16 Secondary School.
- 1.4 Following an unsuccessful free school bid to the Department for Education (DfE) in February 2021, it fell to the County Council to design and construct the new School. As all new schools have to be academies the County Council undertook an academy presumption process to find an academy sponsor to run the school once complete. In February 2022 the University of Brighton Academy Trust (UBAT) was confirmed as the sponsor by the Secretary of State for Education.
- 1.5 A financial contribution of £18.159m has been secured through a Section 106 agreement to contribute towards the construction costs of the new school. £12.23m of this has now been received with the remainder expected as the development is completed. Since circa £6m of the contribution will not be received until the school is constructed, there will be a requirement to forward fund the S106 contribution by using the County Council's Basic Need funds, which are monies allocated to the County Council by the Government to fund the provision of sufficient pupil places.
- 1.6 However, this developer contribution will not be sufficient for reasons set out below. There is the potential for further S106 funding from Homes England due to site-specific issues that will affect the scheme. The balance of the funding requirement will need to be met from other funding sources. The most appropriate one available to the County Council is Basic Need funding.
- 1.7 Feasibility work was instructed in March 2021, with design work on the new school at Brookleigh being instructed in July 2021 following Cabinet Member approval for the investment to progress (decision [LS03\(21/22\)](#)).
- 1.8 Capital funding for the delivery of the secondary school was awarded in July 2022 (decision [LS04\(22/23\)](#) refers), enabling the procurement and subsequent award of a pre-construction services agreement (PCSA) to Willmott Dixon Construction Ltd (WDC) in January 2023 (decision [OKD45\(22/23\)](#)) for them to progress the technical design of the scheme, following planning permission being granted in December 2022.
- 1.9 West Sussex County Council and Willmott Dixon Construction Ltd were not able to reach agreement on the final price for delivery of the scheme and, following

review, the County Council decided to retender the work. This required professional analysis of projected costs for the project to provide a realistic estimate to inform budget allocation and enable the Council to re-tender for the construction.

- 1.10 The current Pre-Tender Estimate (January 2024) shows that an uplift of £16.94m to the current approved budget of £57.04m is required to successfully deliver the scheme. The total cost, after uplift, would therefore be £74m.
- 1.11 The uplift is driven by inflation (cost of materials and programme delay), confirmation that all topsoil has to be imported, the inclusion of the Special Support Centre and further inflation increases earlier in the design stages. The increase in estimated construction cost then drives the impact on fees.
- 1.12 While the net cost per square meter of this scheme is comparable with other projects of a similar nature, showing that design and specification are not driving the notably higher costs of delivering this school project, 34.5% (£26.56m) of this project's estimated costs are site-specific, and are predominantly generated by the topography, urban masterplan and planning requirements that apply to the scheme. The site was selected by the developer Homes England as the location for the school and the County Council had no role in that selection. No other suitable sites are available within the area.
- 1.13 The updated programme produced by the Multi-Disciplinary Consultants (MDC) indicates practical completion of the scheme can be achieved by 30 March 2027, based on the contract being awarded in late August 2024. This is later than originally planned and will mean that the school will not be available on time to meet the growth in pupil numbers.
- 1.14 The requirement for an additional 120 pupil places from September 2026 will need to be accommodated in a temporary school, pending the delivery of the permanent new secondary school in September 2027. The business case for the temporary school will come forward separately in due course.

2 Proposal detail

- 2.1 It is proposed that the identification of additional funding is approved to enable the delivery of the new secondary school and special support centre. A number of external sources will need to be examined to establish whether the additional costs need to be drawn from the County Council's Basic Needs funding. The County Council will continue to work with DfE and Homes England for additional contributions to reduce the pressure on the current Basic Need budget and to secure additional Basic Need grant. The additional funds will support all design work; consultancy support; construction; fixtures, fittings and equipment (FF&E) and ICT for the new 900 place Secondary School for 11-16 year olds plus the 16 place special support centre for children with social communication needs. This will enable the County Council to meet the need for additional pupil places arising from the Burgess Hill, Brookleigh development and current and future pupil number growth across the wider area.
- 2.2 The school is having to be constructed on land secured for secondary provision through the signed s.106 agreement with the developer Homes England. The site is currently in the ownership of Homes England and is to be transferred to the County Council once all requirements within the s.106 have been met, anticipated for Spring 2024.

- 2.3 The school is designed in accordance with the Department for Education's (DfE's) [Building Bulletin 103](#), County Council Design Guides, meets the requirements set out in the County Council's [Carbon Management Plan](#) and is designed to deliver against commitments set out in the County Council's [Climate Change Strategy](#). This includes all necessary accommodation and external areas required to deliver teaching and learning within the school, including general classrooms; science and technology labs; performing arts facilities; physical education facilities, Special Support Centre and staff and administrative accommodation. This School will achieve [Passivhaus Accreditation](#) to demonstrate its high energy performance and ultra-low carbon emissions.
- 2.4 In accordance with government requirements, the completed school will be transferred to the appointed Academy Trust, UBAT, under a 125 year lease.
- 2.5 The procurement of the main contractor will be managed by the strategic procurement team. The single-stage procurement will lead to the award of a design & build contract for the main works.
- 2.6 The MDC have been appointed to undertake the professional services required. The MDC were procured following a compliant and competitive tender procedure in 2022 and the completion of these feasibility studies is within the scope of the MDC contract.
- 2.7 Based on the current programme and housing trajectory, it is anticipated that 120 pupil places will be required for September 2026. As the permanent building will not be complete by then, the new secondary school will open in a temporary location in September 2026, with pupils moving to the permanent site in September 2027. A separate decision will be required to confirm the solution and funding for the temporary school.
- 2.8 It is anticipated that the new secondary school will offer the full 180 pupil places (6FE) upon the permanent facility opening in September 2027.

3 Other options considered (and reasons for not proposing)

- 3.1 Other options were considered at the earlier stages of this project (decision [LS04\(22/23\)](#) refers).
- 3.2 The option to defer this decision to see whether additional s.106 or basic need grant comes forward, would risk delaying the completion of the project beyond September 2027. That would result in the Council being unable to meet the requirement of additional pupil places in the Burgess Hill area, and so not meeting its statutory duty. The temporary school proposal could not accommodate the growth in pupil numbers beyond September 2027. The Council will however actively pursue these other funding sources as it is considered that the DfE and the developer must share the responsibility for fully funding the development of the school on this particular site.
- 3.3 There is no realistic prospect of securing a solution within or closer to the original budget by seeking a re-design of the building as this would require a change to the planning permission. This would mean a significant delay which would add to costs and mean the school would not be ready in 2027. In any event the most significant aspect driving the unusually high costs of the scheme is the nature of the site chosen by the developer.

- 3.4 There are limited options for differently funding the project as the Council's capital programme has been built on the assumption that school place delivery would be funded through the basic need grant. That is what the DfE allocates Basic Need grant for. It is for this reason that the County Council will pursue its case for additional grant and for additional developer contributions to address the construction cost consequences of the challenging site and planning requirements.

4 Consultation, engagement and advice

- 4.1 The Bedelands Project Board, Education Capital Programme Board and the Capital and Assets Board (internal governance of such programmes) have each considered the proposal. Comments from these Boards have been incorporated into the final proposal and recommendations.
- 4.2 Consultation on previous decisions is set out in the Cabinet Member Decision report that supports decision [LS04\(22/23\)](#).
- 4.3 The scheme received outline planning permission in 2019 (DM/18/5114 refers).
- 4.4 The scheme received reserved matters planning permission in December 2022 (DM/22/2553 refers).

5 Finance

- 5.1 The current approved budget for the Bedelands Academy is £57.1m as set out in the Capital Programme approved on 16 February 2024. Current funding assumptions are £18.2m from s106 monies and £38.9m from Basic Need grant. It is not considered that this level of s.106 funding is sufficient in terms of the nature of the site the developer has identified for the school.
- 5.2 Of the Section 106 monies, there are signed agreements for the £18.2m with £12.2m already received and £6.0m to be received as the scheme is delivered. The £6m will need to be forward funded but will be index linked by inflation and therefore expected to be higher than £6m on receipt. However, since this will not be available until after the school is constructed, there is a requirement for the Basic Need allocation to forward fund the £6m of s.106 contribution.
- 5.3 The latest cost estimate for the project is £74.0m, an increase from the approved budget of £16.940m. The increases are attributable to programme delays and inflation, inclusion of the specialist support centre and imported topsoil following agronomic survey.
- 5.4 It is proposed that the £16.940m additional being requested will be funded from the Schools Basic Need allocation and/or other external funding sources secured through the DfE or Homes England in accordance with the s.106 agreement to cover some of the abnormal costs associated with the site topography and topsoil requirement. The final allocation and project assessment will be made once there is certainty about those other funding sources and the outcome of the procurement process is known.
- 5.5 The table below shows the phasing and proposed additional funding increasing the budget to £74m based on currently available sources.

	21/22	22/23	23/24	24/25	25/26	26/27	>later	Total
Corporate Funding/Borrowing	0	0	0	0	0	0		0
S106	0	1.805	2.300	0.225	13.929	0		18.169
Grant (Basic Need)	0.913	0.011	0	17.764	20.213	16.940		55.841
Total	0.913	1.816	2.300	17.989	34.142	16.940		74.000

- 5.6 The Capital Programme approved at Full Council in February 2024 has a Basic Needs budget of £35.023m until 2028/29. Basic Need grant notifications are known up to and including 2025/26 therefore any further Basic Need funding between 2026/27 and 2028/29 would be added to the available Basic Need budget line. The level of Basic Need grant funding can fluctuate, and therefore cannot be guaranteed. Each project will present funding options within its own business case as they come forward for delivery.
- 5.7 If no further Basic Need Grant is received from 2026/27 onwards and no other external funding is secured through Section 106 monies for this project, the remainder of the Education Capital Programme will need to be delivered through the £18.083m Basic Need Grant that will remain. This will require a continued assessment of priorities arising from the County Council's responsibilities for school place planning and provision to ensure the most effective allocation of Basic Need to those projects considered most critical.
- 5.8 The costs associated with the temporary school provision are not included in this paper. The business case for the temporary school will come forward separately in due course. However, the funding of the temporary school will impact on the overall Education Capital Programme budget.

6 Risk implications and mitigations

Risk	Mitigating Action
Procurement Risk	Following the unsuccessful two-stage procurement a single stage procurement is proposed. This carries a risk of limiting interest but will provide greater cost certainty. Early engagement with contractors, along with a robust tender package seeks to mitigate this risk.
Construction risks/cost	An allowance is included for the construction process to provide for the risks due to site conditions (access, existing buildings, boundaries, and existing occupants and users), ground conditions, existing services and delays by statutory undertakers, etc.
Client Contingency	An allowance has been included to provide mitigation for the risks of changes outside the construction elements of the project (inflation, delay in approvals, tender issues, etc...). To mitigate the impact on Basic Need, a lower than recommended level of contingency, £3.4m, is proposed. This will require a strict control over the process to manage any avoidable cost increase.
Delays in site transfer	The County Council and Homes England have worked closely together to successfully resolve all site transfer pre-conditions and

	are now working to an achievable target transfer date of the 5 April 2024.
Timely design coordination	To mitigate this risk, the delivery team has been proactively working with all interested parties to close out design elements that require coordination.
Site access	To be outlined in Construction Management Plan.
West Sussex County Council processes	A thorough review of the project, programme and costs has been undertaken and communicated to decision-makers following the approved County Council capital governance processes.
Non-completion for September 2026	A temporary school facility, accommodating 120 pupils will be installed at the nearby Burgess Hill Academy until the new, permanent facility is ready for occupation in September 2027.
Inflation	Inflation remains high and any delay to the project delivery will incur additional inflationary costs. The levels of contingency are intended to meet this risk without adding to overall costs.

7 Policy alignment and compliance

7.1 This proposal aligns with [Our Council Plan](#), helping people and communities to fulfil their potential and keeping people safe from vulnerable situations.

7.2 Legal Implications

7.2.1 The School site has been secured by way of a S106 Agreement and will be transferred to the County Council once the conditions within the S106 Agreement are met.

7.2.2 Financial contributions have been secured by way of the S106. Additional contributions will be sought to cover the costs arising from the complex nature of the site in accordance with the terms of the S106.

7.2.3 The professional services will be undertaken by the County Council's multi-disciplinary consultants (MDC). The MDC were procured following a compliant competitive tender procedure in 2022 and the services required are within the scope of the MDC contract.

7.2.4 The Council is a Contracting Authority as defined in the Public Contract Regulations 2015 ("PCR") and as such is governed by those regulations.

7.2.5 The Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to (1) eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act, (2) advance equality of opportunity and (3) foster good relations between persons who share a protected characteristic and persons who do not share it. This proposal will ensure suitable school places for those with protected characteristics including those requiring a place in a special support centre and will improve physical

access to sites by providing additional secondary school places close to new homes.

- 7.2.6 Everyone has the right to respect for private and family life under Article 8 of the Human Rights Act. The impact of any proposed changes on the right to family life will be taken into consideration. Article 1 of the First Protocol is the right to education. No person shall be denied the right to education. The proposals therefore support this right as school places will be available in the local area for children of school age.

7.3 **Climate Change**

A key objective of this proposal is to achieve Nearly Zero or Operational Carbon Net Zero in the building design, as well as incorporating other design principles such as biodiversity net gain and sustainable drainage systems throughout the site. This will be captured through Passivhaus accreditation.

8 **Crime and Disorder**

None

9 **Public Health**

None

10 **Social Value**

The contractor appointment will reflect the County Council's duty under the Public Services (Social Value) Act 2012.

Andrew Edwards
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Lucy Butler

Director of Children Young People and Learning

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Background papers

None