

Report to Cllr N Jupp, Cabinet Member for Learning and Skills

June 2021

Initial Consultation Process - Burgess Hill Free School Presumption Competition

Report by Paul Wagstaff, Director of Education and Skills

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

In response to significant housing development to the North of Burgess Hill, known as the Burgess Hill Northern Arc, and a large number of smaller developments in the Haywards Heath and Hassocks area, it is necessary to commission a new all through free school (for children aged 4 – 16) with additional Early Years and Special Educational Needs and Disabilities facilities over two sites as part of the Northern Arc. Identifying a sponsor will be via a Local Authority led presumption competition process with the final decision taken by the Secretary of State for Education in 2022.

The first stage of the competition process is to commence an initial four-week consultation from 28 June to 26 July 2021 engaging with local education stakeholders and residents to inform the proposed specification of the school and seek views on the education offer that could be provided to the children and young people in this new community and the wider South and Central Mid Sussex area.

Recommendation

The Cabinet Member for Learning and Skills is asked to approve the commencement of the initial consultation process to run from 28 June to 26 July 2021 in order to inform a presumption competition to seek expressions of interest from potential sponsors for a new all through free school located in the Northern Arc development, Burgess Hill.

Proposal

1 Background and context

- 1.1 There is a need for additional school places arising from population growth in South Mid Sussex and the Burgess Hill Northern Arc development in particular. It is anticipated that there will be 5,000 new homes in and around Burgess Hill during the period of the Local Plan that runs until 2031. Current projections indicate that additional school places are likely to be required across these combined areas by 2023-24 including the need for early years provision and specialist places for children with special educational needs and disabilities (SEND) (see Appendix 1 - Pupil Projections for schools in Burgess Hill). This demand cannot be fully addressed by expanding existing schools; therefore, it is proposed to establish a new all through school for children from the ages of 4 – 16.
- 1.2 Under [section 6A of the Education and Inspections Act 2006](#) (the 'free school presumption') where a local authority identifies the need to establish a new school it must, in the first instance, seek proposals to establish an academy. This is carried out through a competitive process, with a preferred sponsor being recommended to the Secretary of State who has the final decision. The process is informed by the output from the initial consultation which is the subject of this report.
- 1.3 The new all through school would be located on two sites. It is currently proposed to be made up of a 2 form of entry (FE) primary phase with 420 places in total, or 60 pupils per year of age) to open in September 2023, to include a pre-school setting for up to 50 pupils and a new 6FE secondary phase expandable to 8FE (900 - 1,200 places in total, or 180 - 240 places per year of age) to open in September 2024. Both phases of school as currently proposed would include a Special Support Centre for approximately 16 pupils (32 in total) for children with additional social and communication needs. The final details of the school size and configuration will be assisted by the planned consultation prior to a final specification being put to the competitive process.
- 1.4 The proposal does not include post-16 provision as demand would be limited due to the very recent opening in 2020 of the sixth form college in Haywards Heath. The proposed location of the new school will address rising demand within South Mid Sussex in an area with a high population density as an urban extension to Burgess Hill.
- 1.5 West Sussex County Council will seek applications to open the school from high quality sponsors who have a proven track record of improving educational attainment for children and young people, including those with SEND within a fully inclusive environment.

2 Proposal details

- 2.1 It is proposed to initiate a Local Authority led presumption competition process to establish a new all through free school in the Burgess Hill area. The first stage is to commence a four-week consultation engaging with local education stakeholders and residents to inform the proposed specification of the school and seek views on the education offer that should be provided to the children and young people in this new community and the wider South and Central Mid Sussex area.
- 2.2 The consultation will ask a number of questions about the type of school that education stakeholders and parents in the area would like to see e.g.

- initial size of school
- whether the school has a faith designation and if so, what kind,
- should the school be single sex or co-educational
- what kind of special educational needs would be catered for
- is there demand for particular types of education specialism such as sports college, science technology, engineering and maths (STEM), Montessori or Steiner.

There will also be a free text box to ensure as wide ranging comments as possible are gathered on all aspects of the school. These comments will influence and feed into the setting of the specification and the application form on which expressions of interest are later judged to ensure that the school serves the community to the highest standards possible. A draft application form showing the weighting given to each factor assessed is attached as Appendix 2, which will be modified in line with the results of the consultation as necessary.

- 2.3 The second stage is to issue the specification for the free school and seek expressions of interest from potential sponsors. It is proposed that this stage will take place in September 2021 with candidates shortlisted for interview in October. Invitees to the interview panel will consist of the Chairman of the Children and Young People's Services Scrutiny Committee, the local Member, a headteacher and governor representative, an expert in Special Educational Needs, a senior advisor from the WSCC School Effectiveness team and a representative from the Department for Education/Regional Schools Commissioner's Office. A recommendation is then made to the County Council.
- 2.4 Following the outcome of the interview process and its recommendation there would be a further key decision process which would set out the Cabinet Member's recommendation to the Secretary of State for Education about which sponsor to appoint. The Secretary of State has the final decision on which sponsor is appointed.
- 2.5 The successful sponsor will be responsible for education provision at the new free school to meet the needs of the growing population of Mid Sussex and the County Council will put in place mechanisms to monitor that the project is achieving the required benefits in terms of pupil place planning ie. level of occupancy. The benefits realisation is set out in the business case placed before and agreed by the West Sussex County Council Capital Appraisal Board made up of senior officers and Member representatives and is reviewed for several years after the project is completed.

3 Other options considered (and reasons for not proposing)

- 3.1 There is not an option to do nothing. It would mean the County Council would be in danger of not meeting its statutory duty of ensuring sufficient schools places are available in the local area.
- 3.2 All five existing secondary schools and a number of primary schools in the area could be expanded to accommodate the children from these new developments, but this would be disruptive and expensive and travel distances would be high. One of the schools, Warden Park Academy, would then be larger than the maximum size recommended in the [West Sussex School Effectiveness Strategy](#)

of ten forms of entry (300 pupils per year group) creating a ‘titan’ school which is not favoured by educationalists. By providing a new school, many children who live in the new large-scale development of the Northern Arc of c. 3250 homes will be able to walk or cycle to school and the risk of disruption to other local schools would be minimised.

- 3.3 The option of the additional school places required being provided by a free school outside local authority control but without a presumption competition was considered when a local Multi Academy Trust submitted an application in [Wave 14 of the Free School Programme](#) to open a school in the Burgess Hill area. This application was turned down by the Department for Education/Regional Schools Commissioner in February 2021 as the area is not an area of deprivation or poor educational standards – criteria on which the bidding round was based. For this reason, the Local Authority is proposing a presumption competition to bring forward the school to cater for the increased pupil numbers

4 Consultation, engagement, and advice

- 4.1 The delivery of a new all-through school is supported by Homes England (the developer and master-planner) and Mid Sussex District Council (local planning authority).
- 4.2 There are a number of Multi Academy Trusts that have suggested that they are interested in applying to sponsor the proposed school in response to soft marketing from the education directorate.
- 4.3 The commencement of a consultation process will enable further engagement with educational stakeholders and members of the local community on what kind of school would best suit the area. Consultees will include but not be limited to:-
- Local School Heads
 - Parents, Staff and Governors via Parentmail at Local Schools
 - Local Councillors (County Council, District Council and Town/Parish Council)
 - West Sussex Multi-Academy Trust Organisation
 - Local Early Years Settings
 - The Diocese of Chichester
 - The Diocese of Arundel and Brighton
 - Officers from West Sussex County Council
 - Officers from Mid Sussex District Council
 - Officers from East Sussex County Council
 - DfE Lead Contact for Free School Presumptions
- 4.4 Local Members have also been briefed on the proposal for the new school and the Regional Schools Commissioner’s Office has appointed a representative to give oversight to the process and sit on any panel convened to assess the applications.
- 4.5 The Cabinet Member for Finance and Property has been briefed on this proposal and the financial implications. The Director for Property and Assets has also been consulted and agreed to funding being released for the first phase of feasibility work.

5 Finance

- 5.1 The consultation process proposed in this Cabinet Member report will be funded from existing resources in the School Organisation Team with additional support from AECOM Communications consultants funded by Homes England and the communications team at Mid Sussex District Council, again from their existing budgets and resources. The County Council will take the lead with the consultation and communications and the process will be overseen by the Consultation and Engagement Manager and the Press Office within the Chief Executive's Team.
- 5.2 Currently the revenue funding to provide a new mainstream school would be funded from the Dedicated Schools Grant and would be drawn from the county's growth allocation (currently £3.6m) within the Schools block. This allocation would take the form of pre-opening and post opening funding allocations. This is in line with government funding regulations which allow for local agreement between local authorities and academy trusts.
- 5.3 The pre-opening allocation would provide funding to establish key roles in the school e.g. head teacher and support governance arrangements. This initial allocation acts as a substitute for the lump sum an established mainstream school would receive once it is open. This would be allocated from the summer term preceding the opening at a minimum.
- 5.4 The post opening allocation would include a guaranteed level of pupil funding and dis-economy funding to enable the school to operate at less than capacity. The latter would continue until the school is fully established and would be reviewed annually by the local authority.
- 5.5 The revenue funding given to an existing primary school to provide two additional classes from September would be £64,000 in the first financial year. However, the funding required to provide two new primary classes from September 2023 in a new school such as Burgess Hill Free School would be approximately £270,000 – an additional cost of £205,000. The new school would continue to attract additional funding over the next four years whilst each new primary year group is filled, although this additional cost would drop to between £80,000 and £160,000 each year.
- 5.6 The revenue funding given to an existing secondary school to provide six additional classes from September would be £270,000 in the first financial year. However, the funding required to provide an additional six new secondary classes from September 2024 at Burgess Hill Free School would be approximately £675,000 – an additional cost of £405,000. The new school would continue to attract additional funding over the next four years whilst each new secondary year group is filled, although this additional cost would drop to between £200,000 and £310,000 each year.
- 5.7 The pre-school set up and the Special Support Centre will be funded out of the Early Years DSG block and the High Needs DSG block respectively in the same way as an existing school.
- 5.8 With regard Capital, a separate key decision report will be brought forward [seeking approval for the budget to progress the design](#) for the Secondary Phase School and this is expected to be funded from the Schools Basic Need allocation within the approved capital programme. This is currently at feasibility stage but

is estimated to cost in the order of £34.5m. £18m S106 funds are also secured towards building the new Secondary School but will not be received by WSCC until construction of the housing development, on land at the Northern Arc, is underway and therefore the cost of construction will be forward funded by the council. The Primary Phase building is being procured and delivered by Homes England at nil cost to the County Council and is due to open in September 2023.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Not being able to find a suitable sponsor. Without a sponsor the school would not be able to open.	Raising the profile of the competition via soft marketing to multi academy trusts and via the New Schools Network will encourage the best field possible to choose a suitable sponsor. The consultation process should help identify a school specification to attract sponsors.
Delay to the consultation would hold back the presumption competition which is due to commence in September 2021. This could make the design of the school more difficult and expensive without the input of a headteacher designate or further delay the opening of the school.	School specialisms which maybe requested in the feedback to consultation may require bespoke building design. Some of this risk can be mitigated by the Local Authority and other educationalists acting as client until the sponsor is appointed.
Concerns are raised about the fairness in the choice of sponsor that might leave the Authority open to challenge.	Statutory guidance will be followed carefully with support from the Regional Schools Commissioner's office and the WSCC legal team. See 7.1 below.
The additional revenue cost of the new school may not be affordable from within the county's growth allocation within the DSG.	The funding rates used to fund all mainstream schools in the county could be reduced as part of the county's school funding formula to ensure the overall DSG schools block does not overspend. Due to the mandatory nature of the Minimum per Pupil Funding level in the formula, however, this reduction would only apply to approximately half of the schools in the county.

7 Policy alignment and compliance

7.1 Legal Implications

Under section 6A of the Education and Inspections Act 2006 where a local authority identifies the need to establish a new school it must, in the first instance, seek proposals to establish an academy free school. Statutory Guidance is laid out by the Department for Education in their publication '[The free school presumption departmental advice for local authorities and new school proposers November 2019](#)'. It will be important to follow this guidance

closely in order to avoid any concerns about unfairness in the choice of sponsor which would leave the Authority open to challenge.

7.2 Equality Duty and Human Rights Assessment

- 7.2.1 Section 149 of 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 consultation will include equalities monitoring and analysis so all sectors of the community have the opportunity to input into the process from the earliest stages. The future phases of the process, including the specification and the appraisal of bids will include equality duty compliance.
- 7.2.2 Everyone has the right to respect for private and family life, home and correspondence under Article 8 of the Humans 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 all children of school age.

7.3 Climate Change

The County Council's Design Guides are to be adhered to in relation to the design of the new accommodation. The Design Guides have recently been updated to ensure school building designs are in line with the County Council's Climate Change Strategy.

7.4 Crime and Disorder – None

7.5 Public Health – None

7.6 Social Value - Not applicable for this specific proposal.

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Appendix 1 – Pupil Projections for schools in Burgess Hill

Appendix 2 – Draft criteria for assessing expressions of interest from potential sponsors

Background papers - None