

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

**July 2022**

### **Burgess Hill Northern Arc - New Secondary School - Allocation of Capital Funding for Project Delivery**

**Report by Mr A Edwards, Assistant Director (Property and Assets) and Mr P Wagstaff, Assistant Director (Education and Skills)**

**Electoral division: Cuckfield and Lucastes**

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#### **Summary**

The County Council has a statutory duty to provide sufficient primary and secondary school places for all children who need a place.

Homes England has secured outline planning permission for a new 3500 home development on land known as the Northern Arc of Burgess Hill. As part of the overall plan, a site for a new secondary school has been set aside to ensure sufficient secondary school places to serve the development. In addition, a financial contribution of £18.159m has been secured through Section 106 Agreements to contribute towards the construction costs of the new school.

All Year 7 places at local secondary schools are full for September 2022 and projections indicate a significant shortfall of secondary places in the area in future as the development is built out. A new 6FE secondary school is therefore required to provide for both the increasing population in the area and the additional need generated by the development.

Following completion of a feasibility study, design of the new secondary school has now progressed up to and including RIBA Stage 2 in preparation of a reserved matters planning application to Mid Sussex District Council as the determining authority. Approval is now sought for allocation of the funding to enable the project to proceed.

Target date for the opening of the school remains September 2024, although it is recognised that to enable this it may be necessary to provide temporary accommodation for a short period of time.

The secondary school will be designed to deliver against the County Council's commitments as set out in the [Climate Change Strategy](#).

#### **Recommendations**

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

- (1) That a budget of £53.845m be allocated to enable completion of the design; a procurement process for contractor appointment; submission of a reserved matters planning application and the delivery of a new secondary school to serve the Burgess Hill Northern Arc and wider locality. This is in addition to the £3.215m previously approved by decision [LS03\(21/22\)](#) which funded progression of the design giving a total budget of £57.060m
  - (2) That all further decisions in relation to this project are delegated to the Assistant Director (Property and Assets), in consultation with the Cabinet Member for Learning and Skills, to enter into a contract or contracts which will allow the delivery of the project within the overall agreed budget.
  - (3) To delegate authority to the Assistant Director (Property and Assets), in consultation with the Cabinet Member for Learning and Skills, to enter into an agreement to rent temporary accommodation for up to one year (if required) to support this project within a financial limit of £900,000.
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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 the Northern Arc of 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 and the wider area.
- 1.3 All Year 7 places at local secondary schools in the surrounding area are full for September 2022. Projections indicate this demand for secondary school places will continue for the foreseeable future and therefore the County Council needs to plan for the provision of a new secondary school to meet demand from new housing as it arises. Current pupil projections which include Homes England's housing trajectory of number of pupils who will be living in properties within the development indicate there is a requirement for a 6 form entry (6FE) 11-16 secondary school. The progress of the development and subsequent impact on demand for school places will continue to be monitored.
- 1.4 A Free School Bid to create the new school for the Northern Arc development was submitted to the Department for Education (DfE) by Bohunt Education Trust under the [Wave 14 Programme](#). In February 2021, it was announced that the Bid had been unsuccessful.
- 1.5 It therefore falls upon the County Council to design and construct the new School. As all new Schools have to be Academies the County Council have also undertaken 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.
- 1.6 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 contribution has now been received with the remainder expected after the construction of the new school. Since circa £6m (index linked for inflation) of the contribution will not be received until the school is constructed, there will be a requirement to forward fund the S106 contribution. This will be done by using circa £6m of Basic Need funds, which are monies allocated to the County Council to assist with provision of sufficient pupil places. In addition, the County Council will need to contribute a further £35.686m of basic need funding to enable full delivery of the project. However, the potential for further S106 funding will be sought from Homes England due to the abnormalities (site-specific issues that will affect the development) associated with this site.

- 1.7 A viability study for the Secondary element of the new school was instructed in the summer of 2019. The viability study was undertaken by the County Council's Multi-Disciplinary Consultant, Faithful+Gould Ltd. (MDC) and was concluded in September 2019 with a gross estimate of £34.54m to construct the new school. This viability study pre-dated this Council's Climate Change Strategy and therefore did not take into account the requirement to achieve Net Zero carbon emissions by 2030. This viability study cost estimate also pre-dated the Covid Pandemic and therefore did not reflect current price fluctuations and inflation and other inflation pressures brought about by international incidents.
- 1.8 A detailed feasibility study for the Secondary element of the new school was instructed in March 2021 following confirmation that the Free School bid had been unsuccessful. The full feasibility was undertaken by the MDC and was concluded in July 2021 with a gross cost estimate of £42.4m, excluding Client Contingency.
- 1.9 In July 2021 the Cabinet Member for Learning and Skills approved £3.215m of basic need funding to enable the design of the school to be progressed (decision [LS03\(21/22\)](#) refers) based on the estimate at viability stage. The MDC was therefore instructed, and the design has progressed up to and including RIBA Stage 2. This decision report is therefore based on the design and cost estimate provided at this stage.
- 1.10 There has been notable movement in the cost estimates since the viability study was carried out in Summer 2019, being based on a facility to be built in mid 2022, which pre-dated this Council's Climate Change Pledge, post-pandemic inflation and a thorough understanding of the impact of the site topography.
- 1.11 Following an unsuccessful Free School bid to the DfE and development of a Feasibility Study that refreshed the estimated order of cost to £42.4m, including Net Zero carbon emissions, inflation to mid 2023 and adjustments to take account of site abnormalities, instruction to proceed with the design was received in July 2021.
- 1.12 The Stage 2 Cost Estimate, which this report is based on, sets the estimated Project Budget Envelope at £57.06m. This includes an appropriate level of Client Contingency for use to mitigate risk at this stage of the project and accounting for the clear understanding of site abnormalities, as well as the impact of design development required following engagement with the Local Planning Authority, including the adjustment of inflation to Quarter 1 2024.

- 1.13 The £14.66m increase from feasibility to stage 2 cost estimate is attributed as follows:

Element	Cost
Increase in Gross Internal Floor Area (GIFA) over DfE guidance areas due to design development requirements, e.g. site constraints and Net Zero Carbon impacts	£3.07m
RIBA Stage 2 Redesign to meet Planners' requirements	£2.03m
Additional Professional Fees	£0.78m
Programme Delay	£1.02m
Benchmark Rate Review	£1.20m
Inflation	£1.46m
Cross Laminated Timber	£1.45m
Omit Piled Foundation	-£1.16m
Inclusion of Client Contingency	£4.81m
Total	£14.66m

- 1.14 Since the Stage 2 Cost Estimate was produced, the scope of the project has been amended via Change Control Request to include a Special Support Centre within the secondary school. Changes by the Client to the project scope are a project risk in terms of funding and programme and may be mitigated by the Client Contingency element of the project budget. The inclusion of the SSC will have a cost impact, yet to be fully quantified, which is anticipated to be met from part of the Client Contingency and therefore not requiring an increase to the Project Budget Envelope being requested in this report.
- 1.15 The target date for the opening of the school remains September 2024. Although it is recognised that to achieve this date it may be necessary to provide temporary accommodation.
- 1.16 The approach to temporary accommodation will be determined after the appointment of the contractor. It is currently unclear as to whether the County Council will acquire or rent temporary accommodation. If the cost comparisons determine that the temporary accommodation should be acquired then this capital cost will be borne by the project.
- 1.17 Should the most cost effective approach for the County Council be rental the cost will need to be met from a revenue budget which will be an additional pressure within the Medium Term Financial Strategy. Based on the provision of temporary accommodation elsewhere the costs would be approximately £900,000 for up to one year.

## 2 Proposal details

- 2.1 It is proposed that the allocation of basic need and S106 funds are approved to enable the delivery of the new secondary school and Special Support Centre. The 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 a 16 place Special Support Centre for children with Social Communication Needs to meet the need for additional pupil places arising from the Burgess Hill Northern Arc development and wider area.
- 2.2 The school is to be constructed on land secured for Secondary provision through the signed S106 Agreement. The site is currently in the ownership of Homes England and is to be transferred to the County Council once all requirements

within the S106 have been met. WSCC will not be able to commit to starting construction until Homes England have confirmed their intention to transfer, which is subject to a package of works that they need to deliver. The S106 agreement sets out that the site must be transferred no later than the occupation of the 25<sup>th</sup> dwelling, which Homes England currently forecast to happen in December 2023. However, Homes England have indicated that they are working towards a transfer of the site in late September 2022, but any delay to this event means construction cannot commence with significant risk of impacting project completion and cost. Indeed, this should be considered as the greatest project risk.

- 2.3 The secondary school for 11-16 year olds will be designed in accordance with the Department for Education's (DFE's) [Building Bulletin 103](#), County Council Design Guides and meet the requirements set out in the County Council's [Carbon Management Plan](#) and be designed to deliver against commitments set out in the County Council's [Climate Change Strategy](#). This will include all necessary accommodation and external areas to include 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 Whilst the new School is to be designed and constructed by the County Council, it is proposed that, 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 WSCC Strategic Procurement team. An options appraisal has been conducted by Procurement to ascertain the most suitable route to market. Due to the value of the project and timescales for delivery, it is proposed that the building contractor is appointed at the end of RIBA Stage 3 via a Pre-Construction Services Agreement from the Southern Construction Framework (SCF). This will ensure contractor input into the design at RIBA Stage 4, and whilst the detailed design and agreed maximum price are being worked up, an enabling works contract may be progressed on site, making an efficient use of time.
- 2.6 As part of this decision the Cabinet Member is asked to approve that all further decisions in relation to this proposal are delegated to the Assistant Director (Property and Assets), which will allow the delivery of the project within the overall agreed budget. These further decisions will be taken in accordance with the County Council's governance procedure, with officer key decisions being taken where the required criteria is met.
- 2.7 The MDC have been appointed to undertake the professional services required. The MDC were procured following a compliant and competitive tender procedure in 2018 and the completion of these feasibility studies is within the scope of the MDC contract.
- 2.8 Based on the current programme and housing trajectory, it is anticipated that the new School will open in September 2024 to 120 Year 7 pupils, filling year on year with all year groups offering places by September 2028.

### **3 Other options considered (and reasons for not proposing)**

- 3.1 There is an option to do nothing but this will not provide sufficient pupil places for the growing demand in the area and means the County Council would not be meeting its statutory duty.

### **4 Consultation, engagement and advice**

- 4.1 The Education Capital Programme Board and Capital and Assets Board (the Council's internal governance process for capital projects) has considered and supports the proposal and comments from the Board have been incorporated into the final proposal and recommendations. No material changes have been made to the proposal or the recommendations since consideration by the Board.
- 4.2 This project will be subject to full reserved matters planning permission to be sought from the Local Planning Authority, Mid Sussex District Council. Outline planning consent for the new secondary school has already been granted.

### **5 Finance**

- 5.1 It is proposed that the £53.845m being requested to deliver the project will be funded from the Schools Basic Need allocation and S106 funds secured towards building the new secondary school. This in addition to £3.215m currently approved giving a total budget of £57.060m. The tables below give the breakdown of funding and profiled spend.

<b>Cost Estimate Breakdown</b>	<b>£</b>
Estimated construction cost	41,547,244
Inflation to 1 <sup>st</sup> Quarter 2024 (mid point of construction)	3,205,073
<b>Total estimated Construction Cost</b>	<b>44,752,317</b>
Construction contingency 7.5%	3,356,424
Client contingency 10%	4,810,874
Professional fees and Local Authority fees and site surveys	4,142,653
Rounding	-2,268
<b>Total estimated Project Cost</b>	<b>57,060,000</b>

Funding Source	Financial Year					
	Spend to 21/22 £m	2022/23 £m	2023/24 £m	2024/25 £m	2025/26+ £m	Total £m
S106	0.00	6.826	5.404	5.929*		18.159
Basic Need	0.913	0	17.608	19.380	1.00	38.901
<b>Total</b>	0.913	6.826	23.012	25.309	1.00	57.060

\*these funds may not be received and therefore may need to be met from the Basic Need budget with funds returned to the Basic Need budget once S106 funds received

5.2 There is provision in the capital programme to progress this project. The table below shows the amount of Basic Need approved in the 2022/23-2026/27 capital programme and the amount being requested. The table also includes additional Basic Need Grant the County Council has been notified it will receive, which happened following approval of the capital programme. The amount available after approval of this decision is £35.056m. This takes into account all recent approvals and existing liability in the approved section of the capital programme. It should be noted that approximately £6m of the secured S106 funding will not be available under after the School is constructed and therefore there is a requirement for the Basic Need allocation to forward fund the £6m. If no further basic need is received beyond that approved in the programme and subsequently notified then it would reduce the Basic Need budget available to £29.026m to fund all other Basic Need projects.

	<b>Total unallocated £m</b>
Basic Need as per Capital programme 2022/23 to 2026/27	52.070
Net Changes since Capital Programme approval	-1.620
Midhurst Rother College approval	-1.670
Additional Basic Need Grant for 2023/24 notified after Capital Programme approval	19.810
Additional Basic Need Grant for 2024/25 notified after Capital Programme approval	2.152
Proposed Burgess Hill Northern Arc Secondary School and Special Support Centre	-35.686
<b>Basic Need remaining 2022/23 to 2026/27</b>	<b>35.056</b>

5.3 The impact of this proposal is that it will significantly reduce the Basic Need allocation within the Capital Programme. There are many other potential calls on Basic Need within the 5 year programme. Based on feasibility cost estimates and/or average capital cost per place there is an overall shortfall of £4.617m.

- 5.4 There remains a possibility that temporary accommodation will be required in 2024/25 due to delays in the opening of the school at a cost of £0.9m for a 6-month period. Should the most cost-effective approach for the provision of temporary accommodation be rental the cost will be funded through the budget management reserve.

## 6 Risk implications and mitigations

<b>Risk</b>	<b>Mitigating Action</b>
Design development risks	An allowance has been included for use during the design process to provide for the risks associated with design development, changes in estimating data, third party risks (e.g. planning requirements, legal agreements, covenants, environmental issues and pressure groups), statutory requirements, procurement methodology and delays in tendering.
Construction risks	An allowance has been included for use during the construction process to provide for the risks associated with site conditions (e.g. access restrictions/limitations, existing buildings, boundaries, and existing occupants and users), ground conditions, existing services and delays by statutory undertakers, etc.
Employer change risks	An allowance has been included for use during both the design process and the construction process to provide for the risks of employer driven changes (e.g. changes in scope of works or brief, changes in quality and changes in time). This would cover delays in approvals or late changes in scope. This is a risk in terms of funding and programme and may be mitigated by the Client Contingency element of the project budget.
Employer other risks	An allowance has been included for other employer risks (e.g. early handover, postponement, acceleration, availability of funds, liquidated damages or premiums on other contracts due to late provision of accommodation, unconventional tender action and special contract arrangements).
Delays in site transfer and site infrastructure	Review triggers in Section 106 Agreement and/or agree license for occupation for construction purposes.
Issues with timely design coordination between the County Council, Homes England and the neighbouring developer, Bellway Homes	Ongoing liaison between all parties with clear timescale for receipt of information.
Site access through design and construction phases requiring complex logistics	To be outlined in Construction Management Plan.



Dependency on efficient and streamlined WSCC processes	Agree total budget requirement and delegation to Assistant Director (Property and Assets) in consultation with the Cabinet Member.
Securing planning permission	Pre-application advice has been sought from Mid Sussex District Council.
Completion for September 2024 and provision of places in temporary accommodation	School places are required for September 2024 and the current programme indicates the new school will not be complete until Spring 2025. Whilst exploring the option of delaying opening until 2025 and investing in further bulge classes in local schools, this has been found to be impractical. Use of temporary accommodation will ensure that pupils admitted in 2024 can access education at the school until the permanent building is completed.
Inflation	Inflation is currently very high and any delay to the project delivery will incur additional inflation 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 WSCC once the conditions within the S106 Agreement are met.
- 7.2.2 Financial contributions have been secured by way of the S106. Additional costs can 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 MDC. The MDC were procured following a compliant and competitive tender procedure in 2018 and the services required are within the scope of the MDC contract.
- 7.2.4 The value of this procurement is considered a Key Decision as it will result in the Council incurring expenditure which is significant as decided by the Council. In accordance with its constitution, this is expenditure over £0.5m and it is significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in West Sussex.
- 7.2.5 The Council is a Contracting Authority as defined in the Public Contract Regulations 2015 ("PCR") and as such is governed by those regulations.
- 7.2.6 These will be new Services and so the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") will not be relevant on commencement of the Services.
- 7.2.7 There is no risk that this contract will be considered illegal state subsidy within the subsidy control requirements because the contract will be subject to a

competitive tender thereby ensuring that the Council is not selectively granting an advantage to one particular economic operator over another.

### 7.3 Equality Duty and Human Rights Assessment

7.3.1 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 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.

7.3.2 Everyone has the right to respect for private and family life, home and correspondence 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.

### 7.4 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. The total Net Zero element, inclusive of Passivhaus Accreditation represents 11.88% (£5.32m) of the estimated construction cost.

## 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.

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### Background papers

None