

Children and Families Committee

Date of Meeting: 14 February 2022

Report Title: School Organisation: New Nantwich Primary School (Kingsley Fields) – Authority to Enter into a Construction Contract Inclusive of Pre-Construction Services

Report of: Deborah Woodcock, Executive Director of Children's Services

Report Reference No: CF/43/21-22

Ward(s) Affected: Nantwich North and West
Nantwich South and Stapeley
Willaston and Rope

Corporate Plan Priorities			
	Open	An open and enabling organisation	
	Fair	A council which empowers and cares about people	X
	Green	A thriving and sustainable place	

1. Purpose of Report

- 1.1. Following the approval of the Children and Families Committee at the meeting on 12 July 2021 to proceed with the free school presumption process and seek a sponsor for the proposed new one form entry primary school at Kingsley Fields in Nantwich, and to transfer the site into council ownership, initial design development work has been commissioned through the Estates Property Projects Team for RIBA Stages 0-2 to cover initial feasibility and survey work on the proposed site.
- 1.2. Following completion of this initial phase of work, which is due to be completed at the end of February 2022, approval is sought to tender for and appoint a design and build contractor to further progress the proposal with a view to overall completion for the commencement of the 2024-25 academic

year. The next steps would involve further design development and pre-construction services including submission of a formal planning application, prior to award of a formal construction contract.

2. Executive Summary

- 2.1. As stated above.

3. Recommendations

- 3.1. That committee gives approval:
- 3.2. To provide authority to the Executive Director of Children's Services to award a construction contract for the provision of a new one form entry primary school in Nantwich, inclusive of any other agreements associated with or ancillary to the contract.

4. Reasons for Recommendations

- 4.1. The proposed increase in primary school places in Nantwich will enable Cheshire East to meet its statutory obligations. As the Strategic Commissioner of School Places, Cheshire East Council has a statutory duty to ensure a sufficiency of school places for children resident in its area and a commitment to allow local children to attend their local school wherever possible.
- 4.2. Chapter 2 (page 50) of the constitution states that '*Directors and Statutory Officers may not take decisions unless specifically provided for within the Constitution or specifically delegated by a Committee or Sub-Committee*'. Therefore, this paper seeks approval to proceed to award a construction contract as outlined.
- 4.3. The Education Directorate want to ensure that the progression of contractual arrangements are undertaken in a timely manner in order to meet the proposed timescales as outlined within the presumption process. Progressing contractual arrangements alongside the publication of the specification will show integrated decision making from relevant parties including the views of the approved sponsor as required.

5. Other Options Considered

- 5.1. Alternative proposals to the new primary school were considered in detail in the [report to the Children and Families Committee on 12 July 2021](#) (Report Reference number CF/01/21).

6. Background

- 6.1. On 12 July 2021, the Children and Families Committee gave approval for the service to proceed with the free school presumption process which includes

undertaking a pre-launch consultation, in accordance with the Department for Education process. The five-week consultation period ran from 6 October 2021 to 10 November 2021, and a public drop-in session was held on 19 October 2021. During the five-week representation period a total of 26 responses were received:

- 24 did support the proposal and left comments
- 2 did not support the proposal and left comments.

It should be noted that several respondents may have made more than one comment in their comments hence the figures quoted will not necessarily equate back to the respondents' figure.

- 6.2.** The service was also given permission by the committee to proceed with the transfer of the proposed school site into the council's ownership, and to progress with the process of attracting potential sponsors to run the new school - this will form part of the free school presumption process.
- 6.3.** The Estates Property Projects Team were commissioned by Children's Services on 25 October 2021 to appoint consultants to develop the proposal through early concept design and feasibility stages (RIBA Stages 0-2) including a few surveys which would assist in due diligence for the land transfer to Cheshire East. It is prudent for searches, surveys, and investigations to be carried out to ascertain the availability of necessary services and access to be required at the site prior to acceptance of the transfer.
- 6.4.** The design development process will run parallel to that of attracting potential sponsors to run the new school and to complete any agreements or land transfers associated with appointing a suitable sponsor. Ultimately, the Secretary of State will approve the sponsor following due process.

7. Consultation and Engagement

- 7.1.** In accordance with the free school presumption departmental advice for local authorities and new school proposers issued by the Department for Education (November 2019) to open a new school, the local authority must follow the free school presumption process. This was considered in detail in the report to Children and Families Committee on 12 July 2021.
- 7.2.** Prior to launching the competition to identify the sponsor to run the new school the service undertook consultation and engagement sessions. Feedback from this was considered in [the report to Childrens and Families Committee on 10 January 2022.](#)

7.3. As part of the consultation and engagement process the local authority has undertaken the following:

- A formal briefing with local councillors
- A presentation and meeting were held with local schools
- A five-week representation period ran from 6 October to 10 November 2021 and a public notice was issued in the local press
- Information was available on the Cheshire East website and during the representation period key stakeholders including Ward Members, MP, Diocese, and Town Council were informed of the process
- Information was emailed to all local schools together with a letter for distribution to their staff, governors, and parents
- A public drop-in session was held at Nantwich Library with representatives from the local authority in attendance to discuss the proposal and seek views from parents and the local community.

7.4. Feedback gathered through the informal consultation was shared with the Children and Families Committee on 10 January 2022. This feedback will be used to help formulate and finalise the local authority's specification for a new school before its publication inviting expressions of interest from sponsors.

7.5. The DfE free school presumption process for proposing a new school has seven key stages, as set out in the table below. A proposed timescale for the remaining stages has been included for this specific new primary school for Nantwich:

Stage	Process	Detail	Proposed Timescale
Stage 1	Notification	Notification to the DfE to initiate process.	April 2021 - completed . Children and Families Committee approved progression of scheme on 12 July 2021.
Stage 2	Informal Consultation	Consultation on the proposal with local schools, parents, carers, staff, pupils, school governors and trustees, Diocese representatives, local community, and ward members – minimum of four weeks recommended. Feedback received informs the specification for the school. Complete the Equality Impact Assessment (EIA).	October, November 2021 – completed Children and Families Committee received feedback on the informal consultation at the meeting on 10 January 2022.

			The Equality Impact Assessment (EIA) has been completed.
Stage 3	Draft Specification	Draft specification and EIA submitted to DfE for approval	January/February 2022 – drafted
Stage 4	Formal Specification* for the school published (in-line with DfE requirements)	Following DfE approval, the LA and DfE publish the specification* and invite potential sponsors to submit their applications. Recommended to allow 6-8 weeks but if time allows 12-14 weeks may be more appropriate.	April/May 2022
Stage 5	Assessment Phase	The decision-maker (usually the LA) assesses/scores the applications and may invite potential sponsors for interview. This process is supported by the DfE regional leads.	July/August 2022
Stage 6	Sponsor Approval	The LA submits preferred sponsor to the Regional Schools Commissioner (RSC), which is taken to the Headteacher Board for potential approval.	Autumn 2022
Stage 7	Implementation, pre-opening.	LA and approved sponsor work together to ensure the school opens as per the specification. This stage includes the approved sponsor undertaking statutory consultation prior to any funding agreement being issued.	Spring 2023

**The specification sets out the details for the new school and the requirements for the sponsor to directly respond to in their application.*

7.6. Following approval of this committee report, the next stage of the process will commence which will include the development of initial designs for the school building. Once outline plans for the new school are available the service will undertake further drop-in sessions with the local community.

8. Implications

8.1. Legal

8.1.1. In line with government and construction best practice, it is proposed to procure and award the required construction works using existing regional frameworks. The council currently has access to the North West Construction Hub (NWCH) which is a regional Framework Agreement administered by Manchester City Council and can be used by local authorities and other public bodies in the North West of England. The NWCH offers a range of value bands, including a low value framework for projects of £500k and above, a medium value for projects between £2m and £10m, through to a high value framework for projects over £10m,

which can be utilised to offer the flexibility required for phasing and programme options. Based on pre-tender budget estimates for the proposed project at Kingsley Fields, this indicates the medium value framework would need to be used.

- 8.1.2.** A framework enables the council to meet its need for a service, supply of goods, or works for a set period, to obviate the need to undertake a wide competitive procurement process for each individual scheme. It complies with the Public Contracts Regulations 2015 (“the Regulations”) and the council’s contract procedure.
- 8.1.3.** Before a construction contract is awarded the council should acquire title to the site pursuant to the provisions of the relevant agreement made with the site developer under s106 of the Town and Country Planning Act 1980. If the council were to proceed without having any legal interest in the school site it is not entitled to enter or to make alterations to the site. The council would be at potential risk of legal action being taken to enforce the provisions of the contract by the contractor and for damages by the site owner.

8.2. Finance

- 8.2.1.** The Nantwich Planning Area - Primary scheme is approved within the current Medium-Term Financial Strategy with a budget of £3.5m.
- 8.2.2.** The proposed new school is currently funded via Section 106 contributions and Basic Need Grant. Section 106 education funding contributions are those agreed with new housing developers specifically to fund the additional pupil places needed due to new housing development. This is received in stages over many years.

8.3. Policy

- 8.3.1.** The local authority will determine the Published Admission Number (PAN) from pupils for year groups Reception to Year 6, in line with the statutory timescales set out in the School Admissions Code (2021). The total capacity of the school will be 210 Primary aged pupils (with the option for a 30-place nursery provision for pupils aged 2 to 4). Standard PAN will be 30 per year group. The new school may open in stages, this will be agreed following appointment of the sponsor.

8.4. Equality

- 8.4.1.** An Equality Impact Assessment will be completed for this proposal.

- 8.4.2.** As part of the planning process for a new school a local authority must undertake an assessment of the impact of the proposal both with existing educational institutions locally and in terms of impact on groups of pupils from an equality's perspective.
- 8.4.3.** For the Secretary of State to meet his duties under section 9 of the Academies Act 2010 and under section 149 of the Equality Act 2010, local authorities should provide the Secretary of State (SOS) with a copy of their assessment.

8.5. Human Resources

- 8.5.1.** There are no additional human resource implications for the council.
- 8.5.2.** Any new establishment will open as a free school and HR responsibility will be with the successful sponsor which arise as part of the project.

8.6. Risk Management

- 8.6.1.** If additional places are not provided in Nantwich, parents of Cheshire East children who are resident in the Nantwich area may be unable to secure places at their local school and may be required to travel over two miles to alternative Cheshire East schools requiring transport assistance.
- 8.6.2.** A formal process including consultation of statutory consultees will be required as part of the planning application process.
- 8.6.3.** All the building works will be planned carefully, and contractors will work with the Project Team to ensure that works are scheduled to keep disruption to a minimum for residents on the development.
- 8.6.4.** If projected costs come in higher/increase, there would be a need to undertake a value engineering exercise and assess increased costs against wider budgetary needs.

8.7. Rural Communities

- 8.7.1.** There are no direct implications for rural communities. A new school within a new housing development will assist with reducing traffic around rural areas as the children from this development can attend their local school rather than travelling by car.
- 8.7.2.** The new school will provide the required places for the pupils from the development, limiting the impact on smaller rural schools and enabling such schools to retain their rural character and not have to expand.

8.8. Children and Young People/Cared for Children

- 8.8.1.** Providing additional places at this new school will help ensure that local children, including cared for children, can be offered a place at their local school. An increase in capacity in the Nantwich area would provide more places for families moving into the area particularly outside the usual admissions rounds and reduce pressure on families in managing their child's journey to school and help them settle into their local community.

8.9. Public Health

- 8.9.1.** There are no direct implications for public health.

8.10. Climate Change

- 8.10.1.** The new build school would need to comply with the government's targets of nearly zero carbon as outlined within the Building Regulations and the Councils own currently approved policies of achieving an BREEAM excellent accreditation or equivalent to achieve carbon neutral targets.
- 8.10.2.** Providing additional places at this local school will enable Cheshire East children resident in the Nantwich area, particularly the new housing development, the ability to secure a place at their local school thus reducing the need to travel outside of the area which will reduce energy consumption and will enable pupils to walk to school promoting a healthy lifestyle.
- 8.10.3.** Cheshire East Council are very aware of their environmental education and stewardship role and are very interested in promoting sustainability in general.
- 8.10.4.** As part of the detailed design process, the design team are exploring how the building could be designed to minimize future running costs.

Access to Information	
Contact Officer:	Mark Bayley Acting Director of Education and Skills mark.bayley@cheshireeast.gov.uk
Appendices:	No appendices
Background Papers:	Report to the Children and Families Committee on 12 July 2021 Report to Childrens and Families Committee on 10 January 2022

