

OPEN

Children and Families Committee

11th November 2024

Proposal for the reuse of Flag Lane Baths site for the purpose of an Alternative Provision school

Report of: Theresa Leavy, Executive Director Childrens Services

Report Reference No: CF/33/24-25

Ward(s) Affected: All

For Decision or Scrutiny: Decision

Purpose of Report

- 1 To provide an update to members regarding the potential reuse of the Flag Lane Baths site for the purpose of an Alternative Provision school. This is following the Youth Engagement Schools (YES) Trust submitting a successful application to the Department for Education (DfE) to open a new 70 place Alternative Provision free school.
- 2 To seek committee support in progressing the proposal.

Executive Summary

- 3 As the strategic commissioner of school places, Cheshire East Council has a statutory duty to ensure that there are sufficient places in our schools to meet demands of the residents. Having the right educational placement for all children and young people is key to supporting children and young people achieve their potential and to develop the range of skills and experiences they need to equip them for adulthood.
- 4 Cheshire East has one registered alternative provision setting delivering time limited intensive placements for secondary age pupils delivering time limited intensive placements, in Macclesfield. This intervention reduces the risk of children and young people being permanently excluded.

- 5 In March 2024, the Department for Education (DfE) confirmed that the YES Trust had been successful in bidding for a new free alternative provision school which would provide for up to 70 places. The YES Trust is proposing to establish a specialist day, co-educational, Alternative provision school. The new school will be known as The Engage Academy.
- 6 The proposals to provide the new free alternative provision school will be funded and delivered by the DfE.

RECOMMENDATIONS

The Children and Families Committee is recommended to:

1. Support the preferred option that the former Flag Lane baths site is utilised for the purpose of a new free Alternative Provision School
2. Approve the inclusion £500,000 in the Childrens and Families Capital Programme to indemnity up to that amount to any free school 'abnormal site development' costs.

Background

- 7 As the strategic commissioner of school places, Cheshire East Council has a statutory duty to ensure that there are sufficient places in our schools to meet demands of the residents. Having the right educational placement for all children and young people is key to supporting children and young people achieve their potential and to develop the range of skills and experiences they need to equip them for adulthood.
- 8 The March 2023 Special Educational Needs and Disabilities (SEND) and Alternative Provision (AP) Improvement Plan - Right Support, Right Place, Right Time aims 'to create a three-tier alternative provision system, focusing on targeted early support within mainstream schools, time-limited intensive placements in an alternative provision setting, and longer-term placements to support return to mainstream or a sustainable post-16 destination'
- 9 In March 2024, the Department for Education (DfE) confirmed that the YES Trust had been successful in bidding for a new free alternative provision school which would provide for up to 70 places. The YES Trust is proposing to establish a specialist day, co-educational, Alternative provision school. The new school will be known as The Engage Academy.

- 10 The Engage Academy will work with schools throughout Cheshire East and provide commissioned preventative placements to support pre-exclusion. The new school will provide rest bite and part-time vocational placements to allow wider curriculum offers to those struggling to maintain full-time mainstream education.
- 11 It was initially intended that the new school would be co-located on the site of an existing secondary school in Crewe, but further investigations have established that this is not a viable option.
- 12 Following detailed discussions with the Trust, the DfE and our in-house Assets Team an alternative site for the new school was identified, being the Flag Lane Baths site in Crewe.
- 13 On the 25 September 2024, the Council's Economy and Growth Committee
- 14 (a) Delegated authority to the Director of Growth & Enterprise to explore other options for the former Flag Lane Baths noting the preference for its use as a new Alternative Provision School and develop a business case to be reported back to the Committee in due course.

(b) the reallocation of £1,353,000 of Cheshire East Council funding from the Crewe Youth Zone (Oak Street) budget to the Flag Lane Baths budget.
- 15 All decisions to dispose of Council assets fall under the remit of the Economy and Growth Committee and are subject to best value considerations.
- 16 The proposals to provide the new free alternative provision school will be funded and delivered by the DfE.

Consultation and Engagement

- 17 Flag Lane Baths is a Council-owned property located to the south-west of Crewe town centre. Until 2016 it operated as the public swimming baths in Crewe, it has remained vacant since the establishment of the new Lifestyle Centre. It has been previously marketed for sale, but the only tangible interest expressed was by a local charity, Always Ahead, who proposed to remodel it for a range of community uses and secured financial backing via the Crewe Town Board for their proposal.
- 18 The project has experienced significant delays, primarily due to concerns about the structure of the building and escalating costs.
- 19 In September this year, Crewe Town Board recommended withdrawal of financial support for the project.

- 20 The Council has previously been engaged regarding a requirement for an Alternative Provision (AP) School in the borough. There are strategic requirements to ensure that pupils temporarily excluded from mainstream schools can continue to be educated and prepared for reintroduction back into mainstream schools and have access to alternative provision, with the right support they require to prevent them being permanently excluded from school. Being permanently excluded from school can have a long-term – even life-long – impact on children and young people, changing their outcomes for life. Independent research by the Education Policy Institute (2024) have identified that children who have been suspended or excluded are more likely to be unemployed interact with the criminal justice system, as well as to have mental health difficulties. Leading to long term funding implications for the broader public purse.
- 21 The YES Trust has been successful in its application to the Department for Education (DfE) for a new alternative provision free school in the borough. The DfE has earmarked capital funding to provide the AP free school which, once fully operational, will accommodate up to 70 pupils. This would represent a change to existing arrangements which would result in significant revenue savings for the council. The initial site identified by the trust was not viable for delivering the new school from. The trust has been clear that it would like to be located in Crewe due to pupil profiles.
- 22 Council officers have met with the DfE and the trust. The former Flag Lane Baths has jointly been identified as the preferred site due to its proximity to the town centre and the new YouthZone, which will have operational synergies for daytime use.
- 23 The DfE has a limited window for confirming funding and progressing the scheme to feasibility, so officers will need to engage and work towards determining site suitability, permissions needed and agreeing legal Heads of Terms. Subject to the outcome of these initial assessments, decisions regarding this proposed use will be required from the Economy & Growth and the Children & Families Committee, including matters related to property and funding.
- 24 The DfE has indicated a preference for a cleared site to allow for the construction of a new-build school, rather than the adaptation of the existing buildings. The Department is mindful of the 'locally listed' status of the eastern façade of the former baths, and officers would seek that this is retained as part of a new development, alongside seeking some form of community facility.
- 25 There is an expectation that, whilst the construction cost would be borne by DfE, the council would be asked to contribute the cost of

demolition. Officers have commissioned estimates of the demolition costs which, if retaining the existing façade, equate to circa £1.353m.

- 26 On the 25 September 2024, the Council's Economy and Growth Committee resolved at item 24 to approve: -
- (a) Delegated authority to the Director of Growth & Enterprise to explore other options for the former Flag Lane Baths noting the preference for its use as a new Alternative Provision School and develop a business case to be reported back to the Committee in due course.
 - (b) the reallocation of £1,353,000 of Cheshire East Council funding from the Crewe Youth Zone (Oak Street) budget to the Flag Lane Baths budget.

Reasons for Recommendations

- 27 As detailed in the background section of this report, the council has previously been engaged regarding a requirement for an Alternative Provision (AP) School in the borough. Without such provision, the Council continues to be liable for significant revenue costs to address the requirements of excluded school children.
- 28 The OFSTED thematic review of Alternative Provision in February 2024 reports that the children accessing alternative provision are identified with multiple and complex vulnerabilities, the review found that good alternative provision led to improvements in attendance and academic attainment, improvements in behaviour, reductions in suspensions and successful reintegration into mainstream education and post-16 destinations.
- 29 Secondary schools in the Crewe and surrounding area report that limited access to good quality registered provision is contributing to the significant increase of permanent exclusions in Cheshire east. The only registered alternative provision for secondary pupils is located over 21 miles away in Macclesfield.
- 30 A data snapshot last year found there were upwards of 150 excluded students in Cheshire East. With only 60 places in the only Pupil Referral Unit, the local authority were responsible for providing alternative provision for numbers over and above that, between £8,000 - £16,000 per place. Preventing exclusions is the only way to improve children and young people's life chances and embed significant cost avoidance to the local authority.
- 31 This proposal allows the opportunity to utilise an existing Council asset for the purpose of providing a new free alternative provision school that

will also provide community facilities to support the wider local community.

- 32 Please note that the proposed scheme is subject to detailed site assessments and necessary due diligence that will be undertaken by the DfE.
- 33 The proposed scheme will be subject to gaining all necessary approvals including planning. All necessary approvals will be managed and undertaken by the DfE with input as required by officers from Cheshire East Council.

Other Options Considered

- 34 The option to do nothing and not increase Alternative Provision across the borough would result in permanent exclusions for young people who have not benefited from intervention. This would increase the cost to the Council, within the responsibility to provide a suitable full-time education for excluded students, Section 19 Education Act.
- 35 The service works closely with colleagues in the assets team to identify potential local sites to address the forecast need for specialist school places across the borough. The site detailed in this paper offers an option that officers feel is deliverable subject to statutory approvals.
- 36 The option to continue to place SEND learners in placements out of borough or in independent specialist provisions is not considered appropriate as this will result in a continuation of unaffordable financial pressures on the High Needs DSG budget.

Option	Impact	Risk
Do nothing and not increase Alternative Provision across the Borough	This would result in a failure to meet our statutory duties as a commissioner of school places and risk an increase of young people being permanently excluded.	High

Implications and Comments

Monitoring Officer/Legal

- 37 The preferred option is for a Free School to be established on Council owned land. This will involve development of a business case by the Free School Trust (with input from Children and Families) which will be considered by the Economy & Growth Committee. If the proposal is successful, then the Trust will be granted occupation of the land in order to construct the site and in due course be granted a 125-year lease of the land on the same basis as an academy lease.
- 38 Given the nature of the site Council funding is being set aside both in terms of the £500,000 support to cover abnormal costs (which is the subject of this report) and sums redirected from the Towns Fund to potentially assist with site levelling. Whilst DfE guidance sets out costs that a Local Authority are required to meet, the Free School is a commercial education establishment and in assisting the school in meeting abnormal costs and providing them with a level site the Council will be providing a subsidy within the meaning of the Subsidy Control Act 2022. As part of the business case this subsidy will need to be assessed against subsidy control principles which does allow for considerations such as the relative saving to the Council in supporting this local provision when balanced against the current costs of transporting pupils and paying for provision in other settings.
- 39 Local authorities 'hold' land for particular statutory purposes, for example, for housing, environment, leisure or education. If a local authority wishes to change the purpose for which it holds land, it must transfer land from one statutory allocation to another using a statutory process called appropriation.
- 40 Section 122 of the Local Government Act 1972 (LGA 1972) empowers a local authority to appropriate land for any purpose for which the Council is authorised under the 1972 Act, but this is subject to two requirements. Firstly, the land must already belong to the Council and secondly, the land must no longer be required for the purposes for which it is currently held.
- If the land in question also forms part of “an open space”, the Council must: -
- (i) advertise its intention to appropriate the open space land for two consecutive weeks in a newspaper circulating in the local area; and
 - (ii) consider any objections of the proposed appropriation (section 122(2A), LGA 1972).
- 41 If the Council appropriates open space land under section 122(2A) of the LGA 1972, it is released from any trust for the enjoyment of the public

imposed by section 164 of the Public Health Act 1875 or section 10 of the Open Spaces Act 1996 (section 122(2B), LGA 1972).

- 42 If the Committee approve the above proposals the Council will need to follow the above procedure, and it may be necessary for the Economy and Growth Committee to consider any appropriation and if advertised any representations or objections received.

Section 151 Officer/Finance

- 43 The free school proposal will be delivered and funded by the Department for Education.
- 44 As set out in the DfE How to Apply Guidance, the LA is required to meet abnormal site development costs, including (but not limited to):
- geochemical exceedances relative to guidelines for school use (including asbestos removal)
 - geophysical conditions
 - flooding and alleviation measures
 - s278 costs
 - new road provision from the adopted highway to the site boundary
 - s106 costs
 - retaining structures required as a function of topography
 - ecological provision - reserves, species protection and relocation
 - listed building and heritage community costs
 - title consolidation and registration
 - utility provision
 - environmental conditions that may require specific mitigations such as acoustics or air pollution
 - mitigation measures for constrained sites (such as rooftop playgrounds)
 - other site-specific issues (including demolition)
- 45 In support of the alternative plans for the former Flag Lane Baths, on the 25 September 2024, Economy and Growth Committee approved the reallocation of £1,353,000 of Cheshire East Council funding from the Crewe Youth Zone (Oak Street) budget to the Flag Lane Baths budget. This funding will be used to support associated demolition costs if the scheme proceeds.
- 46 To fund any further potential site abnormal costs a capital allocation of £500,000 will be funded from unallocated High Needs Provision High

Needs Capital Allocation Grant and will be detailed within the Children and Families Capital Programme

- 47 The free school expansion proposal detailed in this report is part of the key mitigations within the Dedicated Schools Grant (DSG) management plan 2024/25 to 2030/31 and is integral to the plans of achieving financial sustainability in the future by increasing local specialist provision and becoming less reliant on the independent sector.

Policy

- 48 Local authorities are under a duty to ensure sufficiency of school places in their area (section 14 of the Education Act 1996).

Equality, Diversity and Inclusion

- 49 Equality impact assessments (EIAs) are completed informally and formally to determine the varying needs of learners and their families to be able to access schools. Such factors are built into all stages of the progression of a scheme. The EEIA is to be completed once the detail of the schemes is agreed and will be available on the website.

Human Resources

- 50 There are no direct human resource implications for the council, once the new free school is open all staff will be appointed the Academy Trust.

Risk Management

- 51 Force Majeure – the global Covid pandemic has identified that there can be some risks where impact cannot be mitigated against and will inevitably cause some delay, disruption, and any additional costs.
- 52 This scheme is being funded and delivered by the DfE; all risks will be monitored as part of the DfE Project Management processes.

Rural Communities

- 53 The creation of additional places across the borough will potentially bring benefits to rural communities by providing settings within more reasonable travel distances if a local school place cannot be met.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 54 It is essential that the council makes best use of resources to ensure that children and young people receive the services they need, and those services must be provided.

- 55 The Children and Families Together Vision includes a priority around children with additional needs.
- 56 The 0-25 SEND Partnership Strategy sets out the partnership vision for meeting the needs of children and young people with SEND. This strategy has been refreshed to include the delivering better value opportunities and mitigations within the DSG Management Plan.
- 57 Providing sufficient school places for all children and young people resident in our area is a statutory duty.

Public Health

- 58 By providing local school places and reducing the distances which some children may have to travel to attend school will help to reduce congestion on the roads and therefore reduce emissions, improving the air quality and making a better environment to live in.
- 59 Providing sufficient places in their local community could improve a child’s social and emotional wellbeing.

Climate Change

- 60 Providing additional school places will enable Cheshire East children and young people 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.

Access to Information	
Contact Officer:	<p>Claire Williamson, Director of Education, Strong Start and Integration</p> <p>Claire.williamson@cheshireeast.gov.uk</p> <p>Sally Ashworth, Interim Head of Service: Education Participation & Pupil Support</p> <p>Sally.ashworth@cheshireeast.gov.uk</p> <p>Joanne Prophet, School Organisation and Capital Manager</p> <p>Joanne.prophet@cheshireeast.gov.uk</p>
Appendices:	

Background
Papers:

1. Economy and Growth Committee – 25 September 2024

<https://moderngov.cheshireeast.gov.uk/ecminutes/documents/s120031/Report.pdf>