

BIRMINGHAM CITY COUNCIL

PUBLIC

Report to: **CABINET MEMBER FOR CHILDREN, FAMILIES AND SCHOOLS JOINTLY WITH THE CORPORATE DIRECTOR FOR CHILDREN AND YOUNG PEOPLE**

Report of: **Assistant Director 14-19 Education Pathways**

Date of Decision: **26th March 2018**

SUBJECT: **PROPOSAL TO ENLARGE HARBORNE PRIMARY (A COMMUNITY SCHOOL) BY EXPANSION**

Key Decision: No **Relevant Forward Plan Ref:**

If not in the Forward Plan: **Chief Executive approved** ☐
(please "X" box) **O&S Chair approved** ☐

Relevant Cabinet Member(s) or Relevant Executive Member: **Councillor Carl Rice, Cabinet Member Children, Families and Schools**
Relevant O&S Chair: **Councillor Susan Barnett, Schools, Children and Families**

Wards affected: **Harborne**

1. Purpose of report:

- 1.1 To seek the determination of the statutory proposal to:
- Enlarge Harborne Primary School by expansion by 1 Form of Entry (FE) onto an additional site at Court Oak Road Harborne B17 9AB.
 - The enlargement will create capacity for an additional 210 pupils in total.
 - The current admission number in reception is 90. The proposed admission number from 1st September 2019 will be 120.

2. Decision(s) recommended:

That the Cabinet Member for Children, Families and Schools jointly with the Corporate Director for Children and Young People:

- 2.1 Approve, having taken account of the statutory guidance, the statutory proposal to enlarge Harborne Primary School, adding 210 places, by expanding onto an additional site at Court Oak Road, Harborne B17 9AB, subject to Planning Permission.

Lead Contact Officer(s): Jaswinder Didially: Head of Service, Education Infrastructure;

Telephone No: 0121 303 8847

E-mail address: jaswinder.didially@birmingham.gov.uk

3. Consultation:

3.1 Internal

- 3.1.1 A previous proposal was approved by the Governing Body in February 2015 to enlarge Harborne Primary School by expansion on the Lordswood Girls School site. Due to unresolvable issues during the planning process the proposal was revoked (formally cancelled) by the Governing Body in November 2017. As there was extensive consultation around the previous proposal, no further pre-statutory consultation was required for the fresh proposal for expansion from 2019.
- 3.1.2 During the statutory consultation period, information about the proposal was sent to the Executive Member for Edgbaston and Ward Councillors for Harborne and Quinton together with a number of officers from services across Birmingham City Council including Admissions, Finance, Education Infrastructure, School and Governor Support, Human Resources, Legal, Planning, Research and Statistics Information Officers for Children and Young People, District Engineers and Education Transport. The information was sent by email. Details of the responses received and outcome of the internal consultation is set out in Section 5 of this Report and in Appendix 3 to this Report. The names of the Ward Councillors and the date and method of consultation is set out in Appendix 6 to this report.

3.2 External

- 3.2.1 The proposal has been fully consulted upon in line with the requirements set out in the statutory guidance “Making ‘prescribed alterations’ to maintained schools – statutory guidance for proposers and decision-makers” published by the Department for Education (DfE) in April 2016. A copy of the guidance for decision makers can be found in Appendix 5.
- 3.2.2 The statutory consultation ran for four weeks from 11th January 2018 to 7th February 2018. During the statutory consultation period, information about the proposal was publicised to all internal stakeholders detailed in point 3.1.2 of this report and also the parents, teaching staff, non-teaching staff, governors of Harborne Primary School and the Member of Parliament for Edgbaston and the following additional consultees:
- Birmingham Schools;
 - Neighbouring Local Authorities;
 - The Archdiocesan and The Anglican Diocese of Birmingham;
 - Trade unions; and
 - The NHS.
- 3.2.3 The information was publicised in the following ways:
- Public notice displayed at the school;
 - On the school’s webpages;
 - Public notice in Birmingham Post newspaper;
 - On Birmingham City Council BeHeard webpage;
 - On the Birmingham City Council School Notice Board;
 - Drop in event held at the school on Monday 29th January 2018; and
 - By Birmingham City Council’s Facebook and Twitter account (advising of the meeting and referring to consultation.)

- 3.2.4 A copy of the Full Proposal document can be found in Appendix 1 and the Public Notice in Appendix 2. The outcome of the external consultation is set out in Section 5 of this Report and in Appendix 3.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

- 4.1.1 Once implemented, these proposals will support the Local Authority to meet its statutory duty to provide pupil places and to promote diversity and increase parental choice in planning and securing provision of school places (Section 14 Education Act 1996 and Education & Inspections Act 2006). The proposal for expansion of Harborne Primary School falls in line with the Additional Primary Places Programme to enhance the school offer and access to outstanding school provision for local pupils and their families.

4.2 Financial Implications

- 4.2.1 The capital cost of the proposed works at Harborne Annexe will not exceed £6,552,545. This will be funded from the Department for Education (DfE) Basic Need Grant, APP7 Stage 4. Detailed costs and scope were provided in the Full Business Case (FBC) which was approved by Cabinet on 13th February 2018.

The Annex has been designed with ancillary spaces for future flexibility and to alleviate space constraints that exist on the main school site. This provides long term value for money by providing the Local Authority with flexibility for the provision of primary places in the future and the school flexibility to meet the educational needs of the pupils.

Consequential revenue costs arising from the additional number and needs of pupils, including additional staffing and any on-going day to day repair and maintenance of the asset, will be the responsibility of Harborne Primary School and funded from the school's delegated budget.

4.3 Legal Implications

- 4.3.1 This report exercises powers contained within sections 19 and 21 of the Education and Inspections Act 2006; and, Schedule 2 and Schedule 3 to the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 (the "Prescribed Alterations Regulations"), by which the Local Authority has the power to make statutory proposals affecting schools in its area and to determine them.

4.4 Public Sector Equality Duty

- 4.4.1 An updated Equality Assessment initial screening was carried out in December 2013 against the School Organisation Change process, which identified that a full impact assessment was not required. No events have occurred since then which would require the preparation of a fresh screening in respect of these recommendations.

5. Relevant background / chronology of key events:

- 5.1 The Local Authority has a statutory duty to provide pupil places and to secure diversity in the provision of schools and increase opportunities for parental choice (Section 14(3A) Education Act 1996 and Education & Inspections Act 2006).

- 5.2 Harborne Primary School is a Local Authority Maintained Community school. The school currently caters for up to 630 pupils from age 4 – 11. To meet immediate demand, the school have agreed to admit up to 30 additional pupils in a reception “bulge” class in September 2018, in accommodation that has become available at the school. These places are not dependent on the approval of this proposal and will be offered during the 2018 admission round.
- 5.3 The prescribed changes that are being proposed at Harborne Primary School are in line with the Local Authority’s Additional Primary Places Programme and Basic Need Strategy. There is specific need for additional primary aged places in the Harborne ward because the resident school population is higher than places available. The Local Authority considers that the permanent expansion of the school Published Admission Number (PAN) from 90 to 120 places (a total of 210 additional places over time) with effect from 2019 along with the bulge reception class in September 2018 is required to meet the current need in the area with no risk of over-provision.
- 5.4 All schools were invited to submit an Expression of Interest (EOI) to provide additional places. The Governing Body and Leadership Team of the school submitted an EOI to the Local Authority in 2014.
- 5.5 A successful evaluation was carried out by Education Infrastructure officers in conjunction with representatives from the Head teacher Forum and Birmingham Education partnership. The evaluation was based on the following basic need criteria:
- i) Location: How well the provision is located to match predicted growth.
 - ii) Standards in the school (it is expected that schools that expand will be Outstanding or Good.):
 - iii) Building feasibility: Viability of providing suitable accommodation on site, within existing space and within planning/site constraints.
 - iv) Popularity: As evidenced by current waiting lists.
 - v) Balance: potential for any expansion to create overprovision or inequality in an area.
- The Local Authority continues to have confidence in the leadership team at the school to support the expansion
- 5.6 Although the original proposal to expand the school on the Lordswood Girls School site was revoked (formally cancelled) by the school’s Governing Body due to unresolvable issues during the planning process, a new site has been identified for the enlargement of Harborne Primary School by the provision of an annex at Court Oak Road Harborne. This site is approximately 1.1 kilometres (0.67 miles) from the Station Road site.
- 5.7 It is proposed that the building(s) at the Court Oak site annex will provide education space built to the required government standards and will include spaces for teaching, offices, support facilities and outdoor areas. This proposal is subject to achieving all relevant approval for implementation which includes Full Business Case (FBC) approval and planning permission for the building work (FBC approved 13th February 2018; Planning submitted 4th December 2017 and fully consulted upon.)
- 5.8 It is proposed that the school will grow year on year through the normal admission round. The proposed new capacity of the school will be 840 places. The proposed new annual admission number will be 120. It is intended that a new reception class of 30 pupils and the additional year 1 class (bulge reception class of 2018) will move from Station Road to the Court Oak annex in September 2019.

- 5.9 The Leadership team of the school will be responsible for deciding which pupils are allocated to the annex site. The admission arrangements will remain unchanged. The over subscription distance criteria will be based on a straight line distance from the applicant's home address to the centre of the main school building on Station Road.
- 5.10 In compliance with DFE guidance, a statutory consultation was completed between 11th January and the 7th February 2018 (four weeks). The statutory consultation (representation period) commenced with a statutory notice for the enlargement of Harborne Primary School, by expansion, being published on 11th January 2018. During the four week representation period comments on the proposal could be submitted in writing to Education Infrastructure or the school, via the BeHeard webpages, email or letter. A copy of the full proposal and public notice can be found within Appendices 1 & 2. In addition a walk in / drop in consultation event was held on Monday 29th January 2018 and was attended by a mixture of parents, local residents, local councillors and staff.
- 5.11 At the close of the statutory consultation (representation period) 76 comments were received regarding the proposals to enlarge Harborne Primary School by expansion. A full copy of all of the responses and an analysis summary are attached in Appendix 3.
- 5.12 A "Frequently Asked Questions" (FAQ) document sheet was compiled and published on the BeHeard website to answer the questions raised. A copy of the FAQ document can be found in Appendix 4 of this report.
- 5.13 Regulation 7 of the Prescribed Alterations Regulations provides that the Local Authority must have regard to any guidance issued by the Secretary of State when making a decision on such proposals. The relevant extract of the statutory guidance is attached at Appendix 5. Paragraph 5 of Schedule 3 to the Prescribed Alterations Regulations allows for the proposals to be approved, approved with modification, approved subject to meeting a prescribed condition, or rejected.
- 5.14 The recommendation is for this proposal to be approved subject to the relevant planning permissions being received; alternatively, in line with the statutory guidance, the proposal may be approved with modification, approved subject to meeting a specific condition or rejected.

6. Evaluation of alternative option(s):

- 6.1 Should the proposals be rejected, the number of places available at Harborne Primary School will remain at the current level and the additional pupils, taken in the bulge-class, will work through the school. In light of school forecasts, this may mean that going forward some children in the area will be unable to secure a place at a local school and therefore have to travel some distance to an alternative school. There is a risk that by failing to implement this proposal, the Local Authority would fail to meet its statutory duty to provide a school place to each child of compulsory school age living in Birmingham.
- 6.2 The consequences for the Local Authority failing to provide sufficient school places are potentially severe and could lead to significant financial costs. Parents could pursue a judicial review at which the LA would be liable for its own and the parents' legal costs. Parents can also make a complaint to the Local Government Ombudsman (LGO). The LGO could recommend financial compensation be paid to parents whose children cannot be offered a school place and the likely increase in successful appeals could mean that measures have to be taken to avoid a breach of the infant class size legislation which would require schools to provide new teachers or new classrooms.

7. Reasons for Decision(s):

- 7.1 To enable Harborne Primary School to offer additional school places in line with the Local Authority's Basic Need Programme.
- 7.2 To ensure the Local Authority is able to meet its statutory duty to provide all Birmingham pupils of compulsory school age with a school place, and ensure that local residents have access to a local school for their children.

Signatures

Date

Cabinet Member, Children, Families and Schools
Cllr Carl Rice

.....

.....

Corporate Director for Children and Young People
Colin Diamond

.....

.....

List of Background Documents used to compile this Report:

1. Education and Inspections Act 2006
2. Making prescribed alterations to maintained schools: "Statutory guidance for proposers and decision makers" published by the Department for Education (DfE) in April 2016.
3. Schools' Capital Programme 2017-2018
4. Edition 3 Birmingham Education Sufficiency Requirements (Nov 2015)
5. Full Business Case

List of Appendices accompanying this Report (if any):

1. Appendix 1: Final proposal document
2. Appendix 2: Public Notice
3. Appendix 3: Consultation responses and Analysis
4. Appendix 4: Frequently Asked Questions document
5. Appendix 5: School Organisation Guidance
6. Appendix 6: Ward Councillors Consulted

Report Version v3

Dated 23 March 2018