

Notice of KEY Executive Decision

Subject Heading:	Outline Proposals to address Early years, Primary, Secondary and SEN rising rolls – Implementation of Phase 4 expansion programme - Bower Park Academy expansion – whether to proceed
Cabinet Member:	Councillor Robert Benham, Deputy Leader of the Council, Cabinet Member for Education, Children & Families
SLT Lead:	Tim Aldridge, Director of Children's Services
Report Author and contact details:	Pooneeta Mahadeo School Organisation Manager pooneeta.mahadeo@havering.gov.uk 01708 431092
Policy context:	The Council has a statutory duty to provide sufficient school places for the local population. In Havering the school age population is rising and this is projected to continue. The Council has to plan to meet the need and ensure permanent places are available on time.
Financial summary:	Cost for the building works required for providing additional places at Bower Park Academy is estimated at £4.3m funded from the school expansion capital programme. Revenue implications for the school will be funded from the DSG.
Reason decision is Key	The proposed expansion will cost £500,000 or more.
Date notice given of intended	07/05/2019

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decision:	
Relevant OSC:	Children and Learning
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

- Communities making Havering
- Places making Havering
- Opportunities making Havering
- Connections making Havering

Place an X in the [] as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

- To support Bower Park Academy to put its business case through for approval and expand the school as set out below.

School	Current capacity	Proposed Capacity as from	Current Published Admission Number (PAN)	Proposed Admission Number
Bower Park Academy	900	1050 from Sept 2020	180	210 from Sept 2020

AUTHORITY UNDER WHICH DECISION IS MADE

Cabinet agreed, at its meeting on 12 October 2016 to delegate the power to take further decisions regarding expansion or financial support for Academies (subject to the appropriate statutory processes and within the agreed capital programme) for Phase 4 of the Expansion Programme, to the Lead Member for Children & Learning after consultation with the Leader.

STATEMENT OF THE REASONS FOR THE DECISION

1. As primary children move into the secondary sector, the number of secondary age pupils (Years 7-11) in Havering schools is expected to rise significantly from 14,338 in 2017/18 to 16,677 in 2024/25.
2. The Council needs to increase the capacity within the secondary sector to ensure the Council can continue to fulfil its statutory duty to provide sufficient secondary places in the area to meet the increased demand. In the Cabinet report 12 October 2016 one of the recommendations was to expand Bower Park from 6 FE to 7FE for 2019/20. However consultation on the proposal did not take place in 2017 when we consulted on the Secondary expansions because the school was graded Inadequate at their inspection in December 2016.
3. A subsequent full inspection by Ofsted in March 2018 graded Bower Park as a Good school, thus making the Academy eligible for permanent expansion.
4. Bower Park Academy is popular and successful school and is over-subscribed: for September 2019 admission, the school had 198 first preferences expressed and offered an additional 30 places on National Offer Day. Even then a waiting

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list of pupils unable to be offered a place at Bower Park remained. Therefore although Bower Park has not yet permanently expanded it has admitted an additional 30 pupils to year 7 for 2019/20, as per the proposal outlined in the October 2016 cabinet report.

5. Bower Park Academy is popular and successful school and is over-subscribed: for September 2019 admission, the school had 198 first preferences expressed and offered an additional 30 places on National Offer Day. Even then a waiting list of pupils unable to be offered a place at Bower Park remained. Therefore although Bower Park has not yet permanently expanded it has admitted an additional 30 pupils to year 7 for 2019/20, as per the proposal outlined in the October 2016 cabinet report.
6. Academy trusts proposing to make a significant change to the characteristics of an open academy, which will affect clauses in their funding agreement, **MUST** submit a proposal for change in advance of the change being made. A significant expansion is defined as an enlargement that increases the overall physical capacity of an academy (as recorded in its funding agreement) so that it can provide places for more than 30 additional pupils. The expansion proposal at Bower Park Academy is a significant change which requires approval via a business case.
7. Changes which can be made via the fast track application i.e. do not require a full business case, are academies, rated as 'good' or 'outstanding' in their last inspection by Ofsted, have a latest Progress 8 score of at least the national average, are in good financial health, have the capacity to make the change and can provide evidence that the local authority, and where a school is designated with a religious character, the trustees of the school, and in the case of Church schools the diocese or relevant diocesan board, does not object to the proposed change.
8. Bower Park School has a Good Ofsted rating. However as its latest Progress 8 score is below the national average, Bower Park is ineligible to expand via the fast-track application process and instead will need to submit a full business case:

	Progress 8 score 2017/18
Bower Park Academy	Below Average -0.44

<https://www.compare-school-performance.service.gov.uk/school/139307/bower-park-academy>

9. For full business case proposals, the RSC will make a decision based on consideration of all relevant factors and any evidence provided by the academy trust. These include:
 - educational track record and current performance of the academy;
 - the details of the change, including the rationale and impact on the school,

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any potential issues/risks relating to the proposals (e.g. changes to leadership and governance, any foreseen adaptations, additions, refurbishments or land transfers needed), and evidence of demand;

- when the change is to be implemented, and how (e.g. will it be done in stages?);
- local context including supply of school places data, LA wider position data and the impact on the availability of places, the effect on other schools, academies, colleges and educational institutions within the LA;
- evidence of fair and open local consultation, including an overview of the responses to the consultation;
- evidence of the degree of LA support and what the academy has done in response to any consultation responses from it;
- financial health of the academy and funding arrangements for the proposed change, any indicative costings and an indication of how these might be met, including how the change will be sustained in terms of capacity and value for money;
- have received Ofsted Reports of either “good” or “outstanding” The DfE has a strong expectation, especially in areas of basic need, that all ‘good’ and ‘outstanding’ academies should consider how they can best support their LA in meeting this duty. Where an academy agrees to expand in response to a proposal by an LA to meet a local need for places, the LA should meet these costs. The DfE provides capital funding to local authorities facing a shortfall of places (basic need), to help support them to meet their statutory duty to secure sufficient school places in their area.

OTHER OPTIONS CONSIDERED AND REJECTED

Do Nothing - This is not practical due to the legal and statutory obligation placed on the Council to provide sufficient school places and the pressures currently faced across the Borough.

PRE-DECISION CONSULTATION

The consultation process ran from 29 April to 24 May 2019. 29 responses were received of which 72% of responses were in favour of the expansion proposal and 28% of responses were against the expansion proposals.

Issues raised against the expansion proposals were:

- Surplus school places
- School size and impact on Standards
- Travel and traffic congestion
- Funding and resources
- Building and ancillary facilities

The Council’s responses to all of the issues raised have been set out in the attached Appendix 1 and there is no compelling reason for the Local Authority not to proceed with these proposals to meet the Council’s statutory duties. The Governing Body and

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the Academy Trust of the school fully support the expansion proposal.

The consultation report is included as Appendix 1

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Pooneeta Mahadeo

Designation: School Organisation Manager

Signature:



Date:10/06/2019

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The Council has a statutory duty under section 13 Education Act 1996 to ensure, so far as their powers enable them to do so, to secure that efficient secondary school education is available to meet the needs of the population of the area.

Under s.14 of the Education Act 1996, a local authority shall secure that sufficient schools for providing primary and secondary education are available for their area. Sufficient means sufficient in number, character and equipment to provide for all pupils the opportunity of appropriate education. In meeting this duty, a local authority must do so with a view to securing diversity in the provision of schools and increasing opportunities for parental choice.

The consultation report sets out the representations of all stakeholders to the proposal and the Council's response. It is a public law duty to ensure that each of the responses to the consultation is conscientiously considered before a decision is taken.

The decision maker must also carefully consider any equality implications of the proposed decision making in accordance with section 149 Equality Act 2010 as follows:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

FINANCIAL IMPLICATIONS AND RISKS

There are no costs (other than officer time) related to supporting the Academy business case submission.

However, if approved, the financial implications of implementing the expansion are set out below.

CAPITAL

Capital building works will be needed at Bower Park Academy for expansion to accommodate the additional children

Estimated Costs

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Name of School	Proposal	Estimate costs
Bower Park Academy	To expand from 6 FE to 7 FE	£4,300,000

Funding of £4m is included within the approved expansion capital programme for this scheme. A virement for a further £300,000 is required from the unallocated provision for Phase 4 expansions.

Revenue Implications for schools

The revenue implications for secondary schools are that, in creating additional forms of entry, additional resources will be incurred particularly for teaching and support staff. Schools' pupil-related funding is calculated each year based on the number of pupils on roll at the previous October census. Because the financial year of academies runs from September to August it will be a full financial year before the additional pupil numbers are reflected in the academies' funding. Therefore, in the year of expansion, additional resources will need to be provided to meet the schools' additional staffing costs. This additional funding to schools will be met from a Pupil Growth Contingency held within the Schools Budget (funded by the Dedicated Schools Grant) as agreed by the Schools Funding Forum. Under current arrangements 5/12ths of this funding (representing the period April to August) will be recouped from the ESFA so the net effect will be a cost to the DSG of 7/12ths of the total allocated representing the period September to August which is the same as it would be for expansions of LA maintained schools. This will be repeated each year as the expansions move through the schools' year groups to meet the costs of the additional classes required in the school prior to the additional pupils being reflected in the schools' formula funding.

Risks

As with most capital schemes, there is a risk that the scheme could overspend due to issues arising during the build process. If this were the case, additional funding would be required.

For Bower Park these risks will be managed by the local authority and as such the Council will be in a better position to control cost.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The human resources implications for the Academy to be proposed for expansion will be managed by the Trust. There is likely to be a need to recruit additional teaching and support staff and the Academy will undertake the recruitment and selection process in accordance with the Trust's policies and procedures.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

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The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

An EIA was done for the expansion of secondary schools for Phase 4. This is included as Appendix 2.

BACKGROUND PAPERS

Appendix 1 – Consultation report

Appendix 2 - EIA secondary expansion consultation

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Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed ✓

Delete as applicable

Proposal NOT agreed because

Details of decision maker

Signed

Robert Benham

Name: *Cllr Robert BENHAM*

Cabinet Portfolio held: *Children + Learning*

CMT Member title:

Head of Service title

Other manager title:

Date:

27/06/2019

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on

27/6/19

Signed

A.H. on