

Notice of KEY Executive Decision

Subject Heading:	Procurement for construction of a SEND Unit at Bower Park Academy
Decision Maker:	Trevor Cook, Assistant Director Education
Cabinet Member:	Councillor Oscar Ford, Cabinet Member for Children's Services
SLT Lead:	Robert South, Director Children's Services
Report Author and contact details:	Pooneeta Mahadeo School Organisation Manager pooneeta.mahadeo@havering.gov.uk 01708 431092
Policy context:	The local authority has a legal duty to meet the special educational needs of those children for whom it is responsible. The needs of pupils who require <i>provision additional to or different from that generally available</i> is determined by a formal assessment pursuant to the Children and Families Act 2014.
Financial summary:	Cost for the building works required for providing a SEND Unit at Bower Park Academy is estimated at £480k and this will be funded from within the SEND Capital grant. The revenue costs related to the operation of the new provision at the school will be met from the Dedicated Schools Grant.

Key Executive Decision

Reason decision is Key	Significant effect on two or more wards
Date notice given of intended decision:	19/12/2022
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

People - Things that matter for residents X

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

Place an X as appropriate

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Recommendation

1. To support the implementation of a SEN Unit at Bower Park Academy from September 2023.

School	SEN UNIT	No of pupils
Bower Park Academy	Sensory impairments (Hearing or visual)	12 (11-16 years)

2. To approve the commencement of a tendering process for the construction of a SEN Unit at Bower Park Academy with a total estimated value of £330,000.00 subject to the results of the consultation and the relevant planning and licensing arrangements.
3. To agree the release of funding at a value of £480,000 to proceed with building works and other project related expenses.
4. To support the academy to write their business case and submit through for approval.

AUTHORITY UNDER WHICH DECISION IS MADE

3 Functions delegated to staff

3.4 Powers of Second Tier Managers

Contract powers

To approve commencement of a tendering process for, and to award all contracts below a total contract value of £500,000 but above the EU Threshold for Supplies and Services.

STATEMENT OF THE REASONS FOR THE DECISION

1. The London Borough of Havering's vision is for children and young people with Special Educational Needs and Disabilities (SEND), and other additional needs, to enjoy their education in the most inclusive environment possible and be supported in participating as fully as they can in the lives of their schools and local community, throughout childhood and into adulthood.
2. The Council's High Needs Strategy 2017-22, set out ambitious and realistic objectives to ensure Havering's provision is the first choice for children and young people with high needs and their families. It provides details of the local offer and the changes that will be implemented to ensure that the needs of children and young people with SEND are met.

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3. We currently have a 30 place SEND Unit for primary pupils with Hearing Impairment at Hacton Primary School, however there is no secondary SEND Unit for such pupils to transition into for Secondary Education. A number of pupils are being sent to out-borough provision which is problematic for families and costly for the authority due to lack of specialist secondary provision for pupils with Sensory Impairment.
4. Bower Park Academy is a good 7FE secondary school with 1050 places in years 7 to Year 11. The school caters for children with an age range of 11-16 years and is considered by the Local Authority as the most appropriate location for a SEND unit to be sited.
5. The SEND unit at Bower Park Academy will meet the needs of pupils with an Education, Health and Care Plan (EHCP) with sensory impairments which are not severe enough to require a place at a special school but who will require spending significant proportions of their time in the SEND unit. The proposed SEND unit will enable these pupils to have their additional needs met while accessing education at a secondary academy school through a flexible approach tailored and adapted to their needs.
6. The establishment of a SEND unit at Bower Park will build on the good education already being delivered at this school and will further enhance the education offer, the school provides to the community. Bower Park Academy has developed expertise in supporting young people with sensory impairment, primarily with visual impairment. They have developed good working relationships with the Local Authority's specialist Sensory Impairment team and we are confident that this relationship will grow to support a wider range of young people with Sensory Impairment.
7. The new facility will enable young people with Hearing and or Visual Impairment to have their needs met through a flexible approach, tailored and adapted to the needs of each individual pupil. It will be for pupils who will require specialist support to enable them the access a mainstream secondary curriculum. It is proposed that the young people will split their time between the mainstream school and having bespoke support within the Unit. The SEND Unit will be staffed by a team of support staff with knowledge and experience of working with young people with sensory impairment, led by qualified teaching staff with recognised sensory impairment additional qualifications. The purpose of the unit will be to support these young people to achieve their academic potential and also to explore ways to develop skills to enable them to live the best and independent life after school. Enabling them to explore and access higher education and employment opportunities.
8. The Cabinet Report of 18 Sept 2019 envisaged an ARP in two secondary schools for ASD/SEMH pupils. One of the schools envisaged at the time was Bower Park. Therefore the implication of the proposal in this report is that the original anticipation that there would be an ARP for ASD/SEMH pupils will not be fulfilled. However, discussions are being held with other secondary schools to have SEND Unit for ASD/SEMH pupils.

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9. The architectural works planned for the implementation of the provision described above shall include the internal alterations and refurbishment to Block D in the school to form the following areas: Heart space; two classrooms; a group room; two small group rooms; toilets and an accessible toilet. In addition to the above, some light-touch external works are planned, to provide external recreation areas, such as small canopies.
10. The total project cost is estimated to be in the order of £480,000 (including professional fees, furniture, fixtures and equipment (FF&E) etc) and a breakdown is included within the financial section

Procurement Strategy

The estimated contract cost is £330,000. This is below the relevant threshold set by the public procurement regulations, it is therefore proposed to procure by use of a single stage selective tendering process with seven contractors selected from the ConstructionLine database in accordance with the Contract Procurement Regulations. Tenders received will be evaluated on a 70% cost/ 30% quality basis.

Programme

Task	Estimated Start Date
Issue of Tender (4wks)	15.02.23
Tender submission deadline	15.03.23
Checkpoint and ED approval	26.04.23
Contract start	28.04.23
Proposed start of works (16 weeks contract)	01.05.23
Estimated end of build works	25.08.23

11. Once funding is agreed Bower Park will submit their business case to the DfE for approval.

OTHER OPTIONS CONSIDERED AND REJECTED

None.

PRE-DECISION CONSULTATION

As required by the DfE guidance for 'Making significant changes to an open academy 2022', the Academy conducted a consultation process which ran from 15 November 2022 to 13 December 2022. In total, 102 responses were received. Of the 102 responses received, 97 were in favour, while 5 respondents were against the proposal. This represents 95% and 5% respectively for and against the proposal.


The consultation report will form part of the Business Case submitted to the DfE in its application for the proposed SEND Unit.

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

Name: Pooneeta Mahadeo

Designation: School Organisation Manager

Signature: 

Date: 13/01/2023

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

1. Local Authorities should have regard to sections 13, 13A and 14 of the Education Act 1996 which require local authorities to ensure efficient primary, secondary and further education are available to meet the needs of the population of their area.
2. The DfE's 2022 guidance for "Making significant changes to an open academy", states that proposed changes affecting SEN units, including adding or removing a SEN unit require a full business case. For full business case proposed changes, the academy trust:
 - will need to demonstrate that a fair and open local consultation has been undertaken with all those who could be affected by the proposed change, and that
 - the academy trust has considered all responses received.
 - secure appropriate consents and permissions (planning, funding, land)
3. 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. In this case it is for the Secretary of State to make the final determination.
4. The Council also has the general power of competence under section 1 of the Localism Act 2011 to do anything an individual may generally do, together with the power under section 111 of the Local Government Act 1972 to do anything ancillary to or which facilitates any of its functions. The contract may be procured in accordance with these powers.
5. The proposed procurement is to be undertaken by the Council but in respect of the property of the Academy and with full authorisation from the Academy. An appropriate agreement will need to be completed between the Authority and the Academy to protect the Council's position.
6. The proposed contract value is below the applicable works contract threshold stipulated in the Public Contracts Regulations 2015 ("PCR") of £5,336,937 and accordingly does not fall within the full rigours of the Public Contracts Regulations (as amended) 2015. However, the procurement exercise must still comply with the Council's Contract Procedure Rules (CPR).
7. For procurements (of Works) valued over £500,000, officers are required to select and invite to tender a minimum of seven organisations from Constructionline (CPR 13.3). The body of this report confirms that the contract will be procured in accordance with the CPR.

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FINANCIAL IMPLICATIONS AND RISKS

Capital Implications

The estimated costs for delivering a SEND Unit at Bower Park is as follows:

Build Cost (Contract)	£ 310,000.00
External Works Contingency	£ 20,000.00
Total Contract Value	£330,000.00
FF&E (incl ICT etc.)	£ 62,900.00
Fees (Incl Building Control Fees, Surveys etc.)	£ 16,000.00
Technical Services Fees (10%)	£ 43,090.00
Project Contingency	£ 22,000.00
Project Total	£ 473,990.00

As part of the implementation of this project, and outside of the contract works, we will transfer money to the Academy, to “furnish” the building which we provide as a shell and core, and which needs to be made ready for the teaching activities to take place. FF&E includes furniture fittings and equipment which is an essential part of creating a building fit for purpose. The Academy will purchase their own FF&E with this allocation.

Funding:

SEND Capital grant	£480,000.00
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Risks

There may be a risk that tender costs will be significantly higher than estimated. At which point management action will be taken, following a review of available options, which will include options to reduce costs (as appropriate) or seek additional funding, ideally from funds set aside for the Special Education Needs Schools programme. A separate Decision will be submitted prior to the award of tender which will reassess the financial implications of the project.

Revenue Implications for schools

SEND units in Havering will be normally funded in accordance with a Place Led Funding approach that complies with the Government’s SEND Funding Reforms which came into effect in April 2018.

For each place in the SEND unit filled by a Key Stage 3 pupil, Bower Park Academy will receive £21,644. For each place in the SEND unit filled by a Key Stage 4 pupil, it will receive £22,268. For each unfilled place it will receive £20,726. This is made up of £10,000 ‘place funding’ and ‘top-up funding’ of £11,644 (Key Stage 3), £12,268 (Key Stage 4) or £10,726 (unfilled). The rates quoted are those for 2022/23.

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Due to the specific needs of the young people attending the Unit and the possible need for higher cost support for communication e.g. BSL signing support staff, individual top up funding will be provided, should the core funding prove to be insufficient.

Revenue Implications for the local authority.

The financial impact of the additional places depends on the cost of supporting those additional pupils if they were not at the Unit. Money is saved if a pupil would have been otherwise in an expensive out of borough provision. If a pupil would otherwise have been in a mainstream school with 1:1 support then the Unit place may be more costly, although it would be more suited to the pupils needs.

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

The human resources implications for the Academy 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

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 EqHIA has been carried out and the proposal in this report has been assessed as having a positive impact on groups with a protected characteristic – Appendix 1

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HEALTH AND WELLBEING IMPLICATIONS AND RISKS

The proposal will have a positive impact on parents' mental health and wellbeing because the ARP establishment will mean the addition of places in a local provision and a further opportunity to continue with the progress the school is making with SEND pupils, strengthen the existing approach used in identifying pupils' needs and provide more training for staff working with pupils with learning needs.

Health and well-being will also be promoted, as individual support will be provided in a tailored way to cater for pupils with complex needs to help them learn and enjoy their education in the most inclusive environment possible.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

In general

The project subject of this relates to improving building efficiency within the educational asset portfolio and delivers a modern and efficient facility which is substantially more efficient and more environmental than the rest of the educational portfolio.

The following sections outline the environmental and climate change considerations that have been addressed as part of the building design and procurement of the construction contract which is subject to the present report. This has been divided into design considerations and contractor selection considerations.

Design element

The design was carried out by professional architects, who recognise, as the Royal Institute of British Architects has declared, that the climate emergency is the most pressing professional challenge of this generation, and that it should receive proportionate attention and care.

Designs have been carried out following the latest and most up to date tools and advices arising from the RIBA, the BRE, the Ministry of Housing, Communities and Local Government (now the Department for Levelling up) and other professional and advisory bodies.

The impact of carbon emissions has been considered as part of the design. Designers of this refurbished building are fully aware that the built environment is responsible for a large part of the carbon emissions in Great Britain. Current figures estimate that 47% of carbon emissions arise from the built portfolio. This includes space heating and electricity. The design proposed seeks to reduce space heating related carbon emissions by improving the fabric of the building; by reducing dissipation of heating, we minimise the need for fuel to heat spaces. Furthermore, this educational design has been carried out enhancing where possible the existing natural lighting and ventilation gained through the existing fenestration. This has the effect of minimising energy spent for artificial lighting and mechanical ventilation. Where artificial lighting is required, the design has privileged LED lighting which delivers an energy saving of around 75% and is designed to last up to 25 times longer than incandescent lighting. In light of the above, the targets of energy performance of the building fabric and of its services have been increased to 10% over the Building Regulations levels.

Materials ratings, efficiency, durability and sourcing have been considered and specified in order to provide an effective environmental impact as well as the use, in the refurbished toilet areas and kitchenette, of performing sanitaryware in terms of water consumption.

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Procurement element

As part of the tender exercise, tenderers will be asked to produce their environmental credentials, and they will be evaluated on this basis, along with other technical queries. In particular, tenders will be evaluated in relation to their response to waste management, energy and carbon footprint questions.

Contractors will be asked to confirm what measures, above and beyond their contractual obligations, they propose to take in order to minimise the production of waste arising from operations, and how the remaining amount of waste will be recycled and disposed of.

Furthermore, contractors will be asked to confirm and describe what measures, above and beyond their contractual obligations, they propose to take in order to minimise the use of fossil fuel energy in operations, and to generally decrease the carbon footprint of operations. Additionally contractors will need to provide details describing their process to calculate the organisation's carbon footprint and what concrete steps they have already taken in order to reduce this or offset the emissions produced by their business.

All tender responses will be evaluated carefully and the successful tenderer will be asked to fully show their understating of all the issues under hand, and to demonstrated proactive, above and beyond commitments and practical steps taken to improve their environmental policies and practices and to reduce site waste and operational carbon emissions.

Lastly, as part of the Council's commitment to go paper free, the tender exercise, which some years ago would have resulted in huge amounts of paper being produced, has been moved online and it is now a fully digitalised exercise.

BACKGROUND PAPERS

None

APPENDICIES

Appendix 1 – EqHIA

Key Executive Decision

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

Name:

Cabinet Portfolio held:

CMT Member title:

Head of Service title

Other manager title:

Date:

Lodging this notice

The signed decision notice must be delivered to Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____