

REPORT TO THE CHILDREN AND YOUNG PEOPLE'S SERVICES POLICY AND SCRUTINY PANEL

DATE OF MEETING: 23 MARCH 2018

**SUBJECT OF REPORT: PRESUMPTION COMPETITION FOR A NEW 210-
PLACE PRIMARY SCHOOL AT NORTH END, YATTON**

TOWN OR PARISH: YATTON

**OFFICER/MEMBER PRESENTING: SHEILA SMITH, DIRECTOR OF PEOPLE &
COMMUNITIES**

KEY DECISION: N/A

RECOMMENDATIONS

That the CYPS Policy and Scrutiny Panel supports a recommendation to be submitted to the Executive Member for Children & Young People's Services to approve the progression of a Presumption Route competition to deliver a new 210-place primary school at North End, Yatton to open in September 2020.

1. SUMMARY OF REPORT

- 1.1 The Council has a statutory duty to secure sufficient school places. There are significant new housing developments being proposed and delivered at North End, Yatton and a new school to meet this demand is being proposed. Whilst separate approvals to deliver capital schemes and obtain planning permission have and will be progressed, this report provides an overview of the process to be followed to secure a sponsor for the new academy school.
- 1.2 The Council is the decision maker when determining the need for a new school using the New School Presumption Route, and is responsible for securing the delivery of the school site and buildings and for the new academy's pre and post-opening revenue costs. The Strategic Schools Forum sets the policy for revenue costs for all schools including the policy for exceptional growth. Funds are made available from the Dedicated Schools Grant in line with these policies. The Secretary of State for Education determines the outcome of the competition for the new school's sponsor and agrees a Funding Agreement with the new academy.

2. POLICY

- 2.1 The Education Act 2011 reinforces the freedoms that Academies and Free Schools have in relation to the establishment of new schools. The legislation relevant to the

provision of new schools is the Education Act 2011 (EA 2011), the Education and Inspections Act 2006 (EIA 2006) and the Academies Act 2010 (AA 2010).

- 2.2 The process recommended in this report is based on current Department for Education *Guidance on Establishing new Maintained Schools* available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/501328/Free_school_presumption_guidance_18_february.pdf
- 2.3 The Council must take all necessary steps to ensure that the widest possible range of groups or organisations that might be interested in establishing the new school are aware of the opportunity to do so and that they have sufficient time to develop proposals. The Secretary of State will only consider entering into a funding agreement with an approved sponsor. New proposers need to be assessed by the department through the normal sponsor approval route. Local authorities must make it clear when publishing their invitation for proposals that those that are not approved by the department will have to go through this approval process and should contact the department at the outset and before submitting a formal proposal to the local authority.
- 2.4 Locally the Education Provision in North Somerset – A Commissioning Strategy 2015 – 2018 provides policy guidance. The document offers options for providing increased provision by:
- establishing new Academies and Free Schools, via national guidelines, where the numbers of additional places supports a sustainable new establishment
 - where appropriate, expanding already popular consistently good/outstanding schools. This may include moving, expanding or creating dual sites in areas of demand;
 - working with existing partners and seeking out new ones to work with in collaboration within Foundation/Trust/Academy/Free School arrangements; and/or
 - providing other forms of new ‘community’ schools – within competition parameters – if there is demand for this type of provision

Since agreeing the Commissioning Strategy, national guidance has been updated – February 2016. All new schools must now be provided either via a locally run Presumption Route or as a result of a Free School bid to the New School’s Network. In all cases, the Secretary of State for Education determines the successful sponsor and offers the academy a Funding Agreement.

- 2.5 The decision to request Expressions of Interest will be made by the Executive Member for Children & Young People’s Services, having regard to the recommendations of the CYPS Policy and Scrutiny Panel.

3. DETAILS

- 3.1 There are currently six ‘live’ housing developments being progressed in and around Yatton. Bloor homes are in the process of delivering Phase 1 of their 250 new homes, and officers have negotiated terms for their Phase 2 development of 200 units. It is anticipated that Bloor’s developer contribution of a 1.8ha school site as their contribution for these two development phases will be transferred to the Council in

2018. Other developers are being asked to contribute towards the cost of the new school buildings.

- 3.2 The Council worked with a successful local Multi-Academy Trust and formally endorsed their unsuccessful Wave 12 Free School submission to run the new primary school at North End, Yatton. Details of the Wave 13 Free Schools Programme have not yet been released. The uncertainty of any future New School's Network Free School Programme and reliance on an external delivery route means that to secure necessary provision for 2020, it is recommended that the Council runs a Presumption Competition. This is to ensure that it can fulfil its statutory duty of providing sufficient school places.
- 3.3 When there is a need for a new school, Local Authorities are required to seek Expressions of Interest from providers who may wish to run it. It is requested that officers of the Council are authorised to notify the Department for Education of the Council's intention to request an 'Expression of Interest' for a new school in North End, Yatton to open by September 2020. The Department for Education (DfE) will also play a role in generating interest from high quality proposers by posting details of new academy/free school proposals on its own website.
- 3.4 Stakeholders will be invited to submit their interest in being the promoter of the new school. Invitations to make an Expression of Interest will be advertised in the local press and through the Council's internal Noticeboard publication. The DfE will be informed, signalling the start of possible national interest in the new school.
- 3.5 The Council will expect those expressing an interest in promoting the new school to:
 - have the ability to operate a co-educational school initially offering 210-places (one-form entry) but with the capacity to expand to 420 places (2-form entry) when demand dictates
 - be a member of a successful Multi- Academy Trust supported by other good/outstanding schools
 - provide an opportunity for a pre-school to operate from the site for at least up to 60 part-time learner sessions (30FTEs). (This could be run by a private, voluntary or Independent provider or the academy)
 - be able to provide an inspiring, aspirational, clear and succinct vision, clearly showing what the school's ethos and key features will be
 - provide evidence of sound safeguarding practice and adherence to national guidelines
 - be able to provide a clear vision for teaching and learning, and show how success will be measured
 - have the capacity and capability to deliver the new school, based on a proven record of delivering successful schools either independently or alongside other recognised stakeholder partners
 - provide inclusive and improving education that can be proven to be financially viable and deliver value for money

- prove that it will engage with, inspire and motivate its pupils and staff so that they achieve the highest possible standards and outcomes
- enable the full participation of all learners
- ensure that the needs of our most vulnerable learners are met
- in meeting the terms of the s106 agreement, provide local school places, with particular regard to meeting the needs of potential residents from any new development
- in working in partnership with other local schools, will not promote or encourage a large-scale relocation of existing pupils from another site
- where needed, provide high quality education for the residents generated from any new development before the opening of the new school buildings (for which funding in accordance with the s106 agreement may be available to assist with this provision)
- enable community facilities to operate from the site (hall, sports fields) where appropriate, including pre-school facilities for at least 2 and 3 year olds, and work positively with the Extra Care Home adjacent to the site to ensure that both organisations can together provide positive opportunities for their and their wider stakeholders
- work in positive partnership with North Somerset Council's People and Communities Directorate (P&C) to enable services to support families being available in the locality
- demonstrate that they support UK democratic values including respect for the basis on which UK laws are made and applied; respect for democracy; support for individual liberties within the law; and mutual tolerance and respect
- attend Council meetings on request to report on the progress of the school(s) they are working with and provide data, as requested by the Council, to enable the LA to monitor their performance
- cover all reasonable costs in relation to the transfer of land.

3.6 The Council will seek the department's views on the proposers that may include a DfE official on an assessment panel or asking for their written feedback on each sponsor prior to any assessment.

3.7 A draft programme for this competition is as below:

Action:	Date:
Statutory Sponsor Process	
CYPS Policy & Scrutiny Committee	23 March 2018

Final Scope agreed	March 2018
Executive Member for Children & Young People's approval to commence a competition given	April 2018
Expressions of Interest Circulated	May 2018
Closing Date	September 2018
Papers reviewed	September/October 2018
Officers, Elected Members and DfE representative meet to arrange interview questions and score submissions based on written information	September/October 2018
Interviews take place	October/November 2018
Internal Reporting Protocols	December 2018
Preferred bidder determined (but not shared publically)	December 2018
All Expressions of Interest and preferred bidder submitted to DfE	December 2018
DfE Outcome announced (around 6 weeks)	By February 2019

3.8 Whilst it is recognised that the Secretary of State is the Decision Maker, members of the People and Communities (P&C) Directorate will review all submissions and make recommendations of support to the P&C Directorate Leadership Team and the Executive Member for Children's Services. This will enable details of the Council's preferred provider to be included with the submission of all Expressions of Interest submitted to the Secretary of State.

All proposals received will be assessed and the Council will advise the DfE of their preferred sponsor. The Secretary of State for Education will take the Council's assessment into account, along with any additional relevant factors. The Secretary of

State reserves the right to over-rule any local process and agree a sponsor from the department's list of approved sponsors on the basis that there may be further evidence about a proposer, or proposers, which means that none of those put forward are suitable. The national intention is to ensure that the school is always established by the best proposer possible.

- 3.9 As soon as a suitable proposer is agreed 'in principle' by the Secretary of State, the department will notify the Local Authority, the successful proposer and the local MP. It will then be for the successful proposer to work towards establishing the new school, with support from the local authority and the department as required. The Secretary of State will consider signing a funding agreement with the proposer once he is content that the school is prepared to open. Once the local authority has been notified of the successful proposer, it is their responsibility to inform other applicants that they have not been successful. Secretary of State decisions are normally made in around 6 weeks.

4. CONSULTATION

- 4.1 Details of the potential need for promoters of new schools have been included in the consultation about the draft Education Provision in North Somerset ~ A Commissioning Strategy 2018– 2021 that is subject to a public consultation between 5 March – 27 April 2018 inclusive. Options for the new school were considered by the CYPS Policy and Scrutiny Panel School Organisation Task and Finish Group on 21 November 2017. They were supportive of the recommendations and submission of this report.
- 4.2 Funding for the new school was approved by Council at their meeting on 14 November 2017.
- 4.3 Invitations to make an Expression of Interest will be advertised in the local press and through the Council's internal Noticeboard publication. Officers will also ensure that those groups and organisations known to the Council that might be interested in establishing the new school are aware of the opportunity.
- 4.4 Once the Council has notified the Department for Education of its intention to seek proposals for a new school/academy, the Department will include these details on its website.

5. FINANCIAL IMPLICATIONS

- 5.1 The Council has a strategic duty to ensure it has sufficient school places to meet demand. It fulfils this role by 'commissioning' places from schools and academies.

Capital Costs

- 5.2 Council approved at their meeting on 14 November 2017 an initial allocation of £4m in the 2018/19 and 2019/20 capital programmes to progress a scheme for a new school. Exact costings are being developed and are expected to be around £4 - £4.25m. Once further developer contributions are received, their allocations will be added or vired into this scheme.

Revenue Funding

5.3 Local Authorities are required to meet the revenue costs of the new provision. They must make provision in their school funding growth funds to support increases in pupil numbers relating to basic need. This relates to the per-pupil revenue funding in addition to all funding for pre-opening development costs and post-opening funding required to address diseconomies of scale until a school reaches full capacity. This is because the new free school will be funded on a recoupment basis. School funding arrangements allow local authorities to retain funding centrally to cover these costs. This is detailed in the revenue funding guide for local authorities.

DfE guidance states that “the presumption arrangements require local authorities to seek proposals to establish a free school where they have clearly identified the need for a new school in their area.” Once this has been established, the department has set expectations around how the school will be financially supported during its pre-open and post-opening period: (as set out in the “Free School Presumption Guide” on www.Gov.uk) the expectations are as follows:

- Local authorities are required to meet the revenue costs of the new provision. They must make provision in their growth funds to support increases in pupil numbers relating to basic need. This relates to the per-pupil revenue funding in addition to all funding for pre-opening development costs and post-opening funding required to address diseconomies of scale until a school reaches full capacity. This is because the new free school will be funded on a recoupment basis
- Local authorities are expected to work with selected proposers (trust) to agree a reasonable and mutually acceptable funding allocation for the local authority to cover pre- and post-opening costs.

5.4 The DfE will provide a one-off payment of £25,000 to the successful proposer for the legal costs associated with establishing a new free school through this route. Upon opening, the school will be funded by the Education Funding Agency on the same basis as other academies and free schools in the same local authority area.

5.5 Other than advertising and other associated competition costs that are met from established budgets, there are currently no specific revenue costs for the Council associated with this competition for the new school.

6. LEGAL POWERS AND IMPLICATIONS

6.1 The School Standards and Framework Act 1998 sets out how Local Authorities should exercise their statutory duties to secure primary and secondary education to meet the needs of the population in their area. The Education and Inspection Act 2006 enhanced the role of Local Authorities, making them strategic commissioners of services with a mandate to promote high standards for all and greater choice and diversity.

The Education Act (EA) 1996 Section 14A, added by Section 3 of Education and Inspections Act (EIA) 2006 requires Local authorities to consider and respond appropriately to parental representations about school provision in relation to local authorities’ functions under Section 14 of the Education Act 1996. Local Authorities must reasonably consider parental representations regarding the provision of schools and respond accordingly, including outlining any proposed action or, where it is considered action is not needed, to explain the reasons for this.

- 6.2 The Education Act 2011 maintains the role of Local Authorities as the strategic commissioner of services, but provides greater autonomy of education provision by the encouragement of the establishment of academies, free schools, studio schools and Enterprise Colleges that are independent of the Local Authority. The Act gives Local Authorities *'a critical new role as strengthened champions of choice, securing a wide range of education options for parents and families, ensuring there are sufficient high-quality school places, co-ordinating fair admissions, promoting social justice by supporting vulnerable children, and challenging schools which fail to improve.'*

The Education and Inspections Act 2006 Sections 6A, 7, 9, 10 and 11, amended by Education Act 2011 section 37 and the secondary legislation - The School Organisation (Establishment and Discontinuance of Schools) (England) Regulations 2007 provides guidance on the statutory process local authorities must follow when considering inviting proposals / considering proposals to establish new schools. This legislation requires local authorities to give precedence to academy proposals when they consider there is a need for a new school in their area.

- 6.3 The Childcare Act 2016, section 2 allows the Secretary of State for Education to discharge his duty to secure free childcare for qualifying pupils on English local authorities. A failure to provide pre-school places means the Council would be in breach of this duty.
- 6.4 In moving to a commissioning role it is not appropriate for any added members of the CYPS Policy and Scrutiny Panel to take part in the panel discussions and decisions. Added members are however welcome to address the Panel within the arrangements made for public discussion (Standing Order SSO9).

The same will also apply to any Member who has a personal interest in providing a new school. If a personal interest, the Member may speak and vote on the matter. If a prejudicial interest is declared, the Member should leave the Chamber whilst the matter is being dealt with but may first make a personal statement on the matter as if they were a member of the public addressing the meeting under the Public Participation Procedure. The Member must immediately leave the meeting at the start of debate on the agenda item.

If the Member leaves the Chamber in respect of a declaration, he or she should ensure that the Chair is aware of this before he or she leaves because it should be recorded in the minutes.

7. RISK MANAGEMENT

- 7.1 The projections for Yatton show that with the creation of new homes, demand will exceed supply by 2020. If the new homes are not forthcoming and demand is reduced, it is hoped places will be found for pupils at other local schools in and outside of Yatton. This could have home-to school transport implications for the Council if the offered school is more than the statutory walking distance from the pupil's home address.
- 7.2 Other organisations may note the need for a new school and could apply to the New School's Network when/if they open their Wave 13 Free School process. For all new schools, the Secretary of State is the decision maker. At the time of writing this report, a Wave 13 Free School programme has not been announced.

- 7.3 Planning and other permissions for the new school may not be forthcoming. The Council will work closely with the DfE, other council officers and the new sponsor to ensure that any risks are minimised as much as possible.
- 7.4 The site of the new school has archaeological significance with evidence of post-roman settlements and rare metal working. All necessary investigations and actions will need to be undertaken, working closely with Historic England and the Council's Archaeological Officers. This find could have implications in terms of future planning application approvals and site delivery.
- 7.5 In order to enter into a Funding Agreement with an Academy Trust, the DfE is clear that responsibility for ensuring and demonstrating that the school is financially viable and will provide a "good" or better educational offer falls to the local authority and school trust. They consider it essential that the school, as a presumption free school founded to meet the basic need in the area, is adequately supported by the local authority. If a school is not be able to recruit to its opening Planned Admission Level they typically look to the local authority to underwrite to a Minimum Viable Number (normally a 2FE for primary schools for the first year of opening). Whilst it is accepted a new school initiated to address need arising from a housing development will grow over time and therefore numbers might be smaller initially, they expect the local authority to recognise this and ensure appropriate financial support is available to the trust in the early years.

8. EQUALITY IMPLICATIONS

- 8.1 As part of the planning process for new schools, the Council must undertake an assessment of the impact of the proposal, both on existing educational institutions locally and in terms of impact on particular groups of pupils from an equalities perspective. This is to enable the Secretary of State to meet the duties under section 9 of the Academies Act 2010 and under section 149 of the Equality Act 2010. In the unlikely event that the Secretary of State has concerns about the level of analysis, the Council may be asked to undertake further work on their impact assessment.

9. CORPORATE IMPLICATIONS

- 9.1 The proposed school will contribute towards Council's statutory duty to secure sufficient school places to meet the needs of its residents. It will be secured and supplied using established corporate contractual arrangements.

10. OPTIONS CONSIDERED

- 10.1 To do nothing. Projections show that there is insufficient capacity in North End Yatton to meet the requirements of the North End developments without the creation of new primary school places.
- 10.2 To expand other local schools. The Yatton Federated Schools accommodate up to 630 pupils across their infant and junior school sites. The Council has a policy of not support primary provision in excess of 630 places. The site at Yatton Infant and Junior Schools does not equate to that needed for a larger school.

- 10.3 To transport pupils to schools with vacancies elsewhere in the district. With the increases in new homes across North Somerset there are very few schools that will not be affected by the need to accommodate extra pupils over time. There is no single solution and pupils would need to be transported to a range of nearest schools to their home address with a vacancy.

The estimated annual revenue cost of transporting primary-aged pupils to attend a school more than 2 miles from their home could be up to £11,400 pa (£60 per day x 190 days). The cost of a minibus is c£19k pa, a 53 seat coach c£32k pa. Home to school transport are all Council revenue costs.

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BACKGROUND PAPERS

- Report to Council on 14 November 2017 - <http://apps.n-somerset.gov.uk/cairo/docs/doc28429.pdf>
- Education Provision in North Somerset ~ A Commissioning Strategy 2015 – 2018 – see <http://www.n-somerset.gov.uk/wp-content/uploads/2015/11/education-commissioning-strategy.pdf>