
PROPOSED EASTBOURNE CHURCH OF ENGLAND ACADEMY DEVELOPMENT

Responsible Cabinet Member – Cllr Bill Dixon, Deputy Leader

Responsible Director– Murray Rose, Director of Children’s Services

Purpose of Report

1. To seek Members’ agreement to take forward the development of a proposed academy to replace Eastbourne School in conjunction with sponsors, the Church of England Diocese of Durham, and David and Anne Crossland.

Information and Analysis

Background

2. Members previously considered a report on the submission of an Expression of Interest to the Department of Education and Skills (DfES) in order to pursue the development of a proposed academy to replace Eastbourne School on 13th June 2006.
3. At that meeting Members resolved that if the Expression of Interest were approved by DfES, that work be pursued through the feasibility stage of the proposed academy process.
4. The Expression of Interest was approved by DfES on 29th September 2006, and Officers have since been working with DfES and the sponsors in order to progress the feasibility stage. There are several key features within the feasibility stage which require completion and agreement for the academy proposal to proceed. These are:
 - (a) Approval of an Outline Business Case (OBC) by Partnerships For Schools (PFS) and DfES. (PFS is a partner agency employed by DfES to deliver the construction projects for both the Building Schools for the Future (BSF) programme and the Academies programme);
 - (b) Funding Agreement – this agreement sets the revenue funding levels for the operation of the new school as well as legally committing the sponsors to the proposed academy. This task falls to the sponsors to complete, but requires our agreement to the content (e.g. admissions procedures). During the process of agreement the Council will work to ensure that the Academy is confirmed as a member of the family of schools, this will involve agreement on key principles including :-
 - (i) The Darlington policies on admissions, children with SEN and exclusion.
 - (ii) Local Authority and community involvement in Governance.

- (iii) Adherence to national terms and conditions for transferred employees.
 - (c) Agreement to the technical closure of the existing school (for the academy to open). This requires statutory consultation with stakeholders and this process has already commenced.
5. In addition to the above it will be necessary to progress and complete information and consultation requirements under the Transfer of Undertakings (protection of Employment) Regulations (TUPE).

Timescale

6. In November 2006 the DfES invited the Authority to consider the possibility of opening the proposed academy in current buildings in September 2007. Whilst this is in advance of the original proposal, it will bring forward the envisaged benefits in the form of additional school improvement two years ahead of plan and secure the new build by 2009. This can only be beneficial to the school and the community.
7. This would mean that the proposed academy would be part of DfES' accelerated programme and would bring additional benefits to the school in the form of additional financial support from DfES to secure educational and environmental improvement. The amounts involved will be needs led and DfES have appointed advisors to review these needs.

Academy Proposal

8. The original Expression of Interest was for a 750 place academy which included four forms of entry of 120 pupils (giving 600 pupils) with an additional 150 places for years 10 & 11 drawing from all schools as part of the 14-19 offer for the Borough. However, DfES revised this and have agreed funding for a 700 place school with year groups of 140, without the additional places in years 10 & 11. The proposed academy would still form part of the 'family of schools' within the Borough and will continue to provide its part of the 14-19 offer.
9. It is a requirement of the OBC to carry out a full site option appraisal at this stage of the process. Members will recall that at the time of submission of the EOI, the only site under consideration for the proposal was at Salters Lane (Tommy Crooks Park). This was due to the original size of the proposed academy, the nature of educational provision being weighted towards Key Stage 4, drawing pupils from across town, and the ease of access for this facility. Given that this Key Stage 4 weighting has been removed, it was necessary to review other sites previously discounted for the proposed academy.

Site Appraisal

10. The options appraisal carried out for the OBC has identified that the Hundens Park site as shown on the plan attached at **Appendix A** is now the preferred site for the proposed academy, as it will continue to serve the current school community and admissions areas. The Hundens Park site which extends to 7.71 ha (19.06 acres or thereabouts) has a number of advantages over the Salters Lane site for the smaller proposed academy, including its proximity to:

- (a) the current school;
 - (b) the Eastbourne Sports Complex, which the school uses extensively to provide its PE curriculum and will remove the need to reprovide these facilities in full; and
 - (c) Darlington College for 14-19 links to vocational curriculum.
11. In addition to this, the Salters Lane site had the additional complication of the electricity sub-station which would have required relocation at considerable time and expense.
12. As part of the site appraisal, positive discussions have taken place with Sport England with regard to the re-provision of football pitches, and the proposed academy would be built on the site of the current football facilities at Hundens Park, as well as continued community use of the remaining pitches once the academy is open. This is not likely to cause significant difficulties in the programme.

Procurement Method

13. Since the submission of the EOI, the procurement method for academies has changed. Academy schemes will now follow the Building Schools for the Future (BSF) framework and will be procured by the local authority. This is to make use of the expertise within authorities for the procurement of schools' building projects and to provide a level of consistency and quality between similar projects across the country.
14. In order to assist in the procurement process, PFS have undertaken a restricted OJEU (Official Journal of the European Union) tender exercise and secured the services of six companies for local authorities to procure through, at fixed rates and specification levels. This allows for a formula driven capital funding envelope to be calculated for each project based on pupil numbers. As part of the procurement process the Authority will have presentations from all six companies and will select two companies who will develop a detailed design within the cost envelope for consideration by the Authority. It is the Authority who has the final say on the design of the buildings, although we will continue to work in partnership with the sponsors to ensure the design will meet the needs of the new curriculum.
15. The use of this procurement method will require the waiving of standard contract procedures and will therefore be the subject of a separate report to Council.

School Closure

16. It is a requirement of the OBC that the Authority has secured approval for the closure of the predecessor school. The closure would be conditional on the opening of the proposed academy to succeed the school. The Authority has commenced the statutory consultation exercise on the school closure and it is anticipated that the proposal will be discussed by the School Organisation Committee at the end of April. Permission to undertake this process was granted as part of the feasibility stage by Cabinet on 13 June 2006.

Staffing Implications and Outcome of Consultation

17. Since December 2006 a series of meetings have been held with stakeholders of Eastbourne School to provide up to date information on the proposal. The audience for the meetings have been governors, parents and pupils of Eastbourne School, local Councillors, parents of

children from the feeder Primary schools in the area, community partnerships, the 14-19 Trust, as well as staff employed at the school and the trade unions. In general comments from these meetings have been positive. To date the Authority has received around 90 responses from the consultation brochure, with the sponsors receiving similar numbers for their own consultation exercise. Approximately 90% of these responses are in favour of the development.

18. The Transfer of Undertakings (Protection of Employment) Regulations will apply to all staff employed on permanent contracts at the school. Therefore staff will transfer to the proposed academy on the closure of Eastbourne School.
19. Both the Council and the academy sponsors have information and consultation obligations under TUPE and meetings are ongoing in this respect.
20. Trade unions had raised questions in relation to staffing issues in the proposed academy, in particular:
 - (a) That national terms and conditions would be maintained for all staff transferring to the academy;
 - (b) That national terms and conditions would be applied to all new staff subsequently employed by the academy;
 - (c) That the academy confirm recognition of all trade unions party to relevant national agreements; and
 - (d) That following completion of staff transfers and the opening of the academy, formal consultative arrangements be established for the basis of ongoing consultation and negotiation with the trade unions.
21. The sponsors have provided written assurance that all four of these requests will be met and this will greatly assist the transfer process and employee relations within Eastbourne School.
22. It should be noted that whilst the Council and the sponsors are of the view that the trade unions' local concerns have been addressed, the unions have voiced an objection in principle to the establishment of an academy, which is in line with their national policies.
23. Members have already agreed the Expression of Interest and received a further update on progress within this report. The accelerated programme for the establishment of the academy is extremely challenging in order to establish the academy by September 2007. Members are requested to approve the establishment of the Eastbourne Church of England Academy subject to appropriate approval being secured from DfES, and completion of appropriate consultation.

Proposed Use of Existing School

24. It will be necessary for the Eastbourne Church of England Academy, once established, to use the existing Eastbourne School from September 2007, until the proposed new academy facility is completed and ready for occupation. It is proposed that this short term use of the existing school buildings and grounds is to be formalised by way of a lease agreement which, on transfer of the academy to the new facility, will terminate and the buildings and grounds will revert to the Council.

25. The DfES have identified certain improvement works which will need to be carried out to the existing school building prior to the academy's occupation in September. These works are to be funded by the DfES.

Negotiations of Proposed Legal Agreements

26. Negotiations related to the establishment of the academy are ongoing in respect of legal issues relating to land transfers, use of existing facilities, access agreements and issues relating to the procurement and establishment of the academy itself. In the timescale set out in this report, it will be necessary to seek delegated authority to officers to complete negotiations with relevant parties. It is proposed that delegated authority be granted to the Director of Corporate Services and the Director of Development and Environment in consultation with the Deputy Leader and Cabinet Member for Resources Portfolio respectively, to conclude negotiations and agree terms.

Legal Implications

27. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.
28. As part of the approval process for the Outline Business Case, the Council is required to confirm that it is content with the preferred site and that there are no others under consideration, and also that it will transfer the site for the school at nil cost to the academy, prior to the proposed academy opening. The transfer of land at nil cost is a requirement under the terms of the national contract tendered by PFS for the Academies and BSF programmes. This decision was approved within the report to Cabinet on 13th June 2006.

Section 17 of the Crime and Disorder Act 1998

29. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. Creating an environment where young people can thrive and grow into responsible adults can have a significant long term impact on crime rates in Darlington.

Council Policy Framework

30. The issues contained within this report do not represent change to Council policy or the Council's policy framework.

Decision Deadline

31. For the purpose of the 'call-in' procedure this does not represent an urgent matter.

Key Decision

32. This is a key decision for two reasons. Firstly, if the DfES approves the implementation of the proposed academy, significant funding for the new build academy would be invested into Darlington, and secondly, the proposed academy necessitates the formal closure of

Eastbourne School.

Recommendations

33. It is recommended that Members:

- (a) agree to vary the Expression of Interest from a 750 place academy to develop a 700 place academy to replace Eastbourne School;
- (b) following appropriate consultation and if the Outline Business Case is approved, agree to the implementation of the proposed academy from 1 September 2007;
- (c) approve the preferred site of Hundens Park as shown on the plan, attached at **Appendix A**, as the site for the development of the Academy and confirm that it as the only site under consideration;
- (d) agree to grant a lease of the existing school and the preferred site to the Academy on terms to be negotiated;
- (e) authorise the Director of Corporate Services, in consultation with the Deputy Leader, to complete all appropriate negotiations except those relating to land issues and agree terms in connection with the establishment of the academy;
- (f) authorise the Director of Development and Environment, in consultation with the Cabinet Member with Resources Portfolio, to complete all appropriate negotiations and agree terms in connection with any land issues associated with the establishment of the academy;
- (g) authorise the Borough Solicitor to complete all documentation accordingly; and
- (h) terms agreed to be reported to Cabinet in due course.

Reason

34. To allow the development of the proposed academy in order to bring educational improvement for the pupils of Eastbourne School from 1 September 2007 and the additional investment this will attract within the timescales required to meet DfES' accelerated programme.

**Murray Rose,
Director of Children's Services**

Background papers

Report to Special Cabinet on 13 June 2006

The Expression of Interest submitted to DfES Summer 2006

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