

Wiltshire Council

Cabinet

18 June 2013

**Subject: Primary Schools at East Trowbridge and Tidworth
NEQ - Preferred Bidders**

Cabinet member: Councillor Laura Mayes – Children Services

Key Decision: No

Executive Summary

The DfE published non-statutory guidance in May 2012 on the procedures that LAs should follow when opening a new school. The guidance followed on from the introduction on 1 February 2012 of Section 37 and Schedule 11 of the Education Act 2011. The guidance makes it clear that there is a presumption that all new schools will open as Academies and that LAs have to hold a competition to find a successful proposer who they then recommend to the DfE. The DfE make the final decision on the successful bidder.

Wiltshire Council will be opening two new primary schools in September 2014.

Trowbridge: A new 210 place primary school will be built by developers in East Trowbridge on the outskirts of the town with scope to expand to 420 places in future years.

Tidworth: A new 315 place primary school will be built by the Council in the North East Quadrant of the town with scope to expand to 420 places in future years.

Proposals

- a) Following the evaluation process Cabinet agrees to recommend to the Department for Education (DfE) that Wiltshire Council's a preferred bidder to run the new schools at East Trowbridge and at Tidworth NEQ.**
- b) Following the agreement to recommend the two Academy providers, Cabinet also agrees to forward the paperwork from all 6 bidders (Trowbridge) and 6 bidders (Tidworth), as well as the LA's evaluation of the bids to the DfE.**

c) The Cabinet also recognises that the DfE will make the final decision on the successful bidder to run the new school and may overturn the Cabinet decision in favour of another academy provider.

Reason for Proposal

Following guidance issued by the DfE, the LA undertook an Academy Provider competition for both schools from 2 March 2013 to 22 April 2013 to find their preferred bidder to recommend to the DfE. The LA received 6 bids for each school and after holding a short-listing exercise, two bidders were invited to formal interview for each school. After the interviews on 20 May 2013 (Trowbridge) and 24 May 2013 (Tidworth), the panels agreed to recommend to Cabinet that Provider A be invited to run the new school in Trowbridge and that the provider B be invited to run the new school in Tidworth.

Carolyn Godfrey
Director of Children's Services

Wiltshire Council

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Purpose of Report

1. To confirm the outcome of the evaluation and interview process that the LA held to find their preferred bidder to run the new 210 place primary school in East Trowbridge (with scope to expand to 420 places) and their preferred bidder to run the new 315 place primary school at Tidworth NEQ (with scope to expand to 420 places).

Background

2. The DfE guidance sets out the process that LAs are required to follow. There were four stages in the process:
 - a) Publication to interested parties and the DfE of the details of the requirement for the new school and publication of application guidance on how bidders could make applications to run the school via a School Competition
 - b) An evaluation process by the LA of the bids received
 - c) The LA recommendation to the DfE on their preferred bidder
 - d) The DfE makes the final decision on the successful bidder

Main Considerations for the Council

3. In December 2012 a decision paper agreed by Changing School Board to the adoption of the new DfE guidance. The Cabinet Portfolio holder for Education, Skills and Youth was part of the Board. On 2 March 2013, in line with the DfE guidance, the LA published to a number of key partners, organisations and other interested parties our application guidance for submitting bids by 22 April 2013 to run the new schools (Appendix A). Details were also forwarded to the DfE who highlighted the School Competition on their website so that as many organisations as possible were aware of the competition.

4. By the closing date for applications the LA had received a total of six bids for each school. Having sought advice from the DfE, it was decided that a panel of Senior Officers and a Representative of the Primary Head's Forum would assess all the bids against agreed criteria and shortlist bids for formal panel interviews.
5. As a result of this evaluation process two applicants were invited for formal interview for the Trowbridge School and two for the Tidworth School.
6. The interview panel for the East Trowbridge New School was on Monday 20 May 2013 and consisted of Julie Cathcart, Nick Glass, Cllr Richard Gamble (Portfolio Holder for Schools, Skills and Youth), Cllr Stephen Oldrieve (Paxcroft), Andy Bridewell (Chair of Wiltshire Primary Heads Forum), and Tom Lindsay (Support). The interview panel for the Tidworth new school on Friday 24 May 2013 consisted of Stephanie Denovan, Nick Glass, Cllr Richard Gamble (Portfolio Holder for Schools, Skills and Youth), Chris Franklin (Mayor of Tidworth), Catriona Williamson (Deputy Chair of Wiltshire Primary Heads Forum), and Tom Lindsay (Support).
7. The DfE state in their guidance that there are three criteria that decision makers should consider when making a recommendation on their preferred bidder. The criteria are:
 - a) The quality of the places being added into the system, based on the proposer's vision and educational plan
 - b) The capability and capacity of the proposer to deliver their proposal to time and on budget, based on their expertise and experience
 - c) Value for money, confirming that the proposer considers the new school can be met within the estimate of capital costs outlined by the LA. This criterion is not relevant in the case of both schools as one school is being built by the developers and the other is being built by Wiltshire Council.
8. After the presentations and interview, the panel reviewed all the evidence and decided on their preferred bidder to recommend to Cabinet in order that an agreed bidder for each school could be considered and recommended to the DfE. Further details about the strengths of the successful bids and some of the weaker aspects of the non-shortlisted bids will be presented to Part 2 of Cabinet. This summary reflects the headline conclusions of the initial panels and the two interview panels and thus sets out why the Trusts are being recommended to run the two new schools.
9. Once Cabinet has agreed on the recommended bidders, the LA will forward to the DfE details of all the six original bids that were received for each school, and details of the interview and the Council's evaluation that was undertaken. In accordance with the DfE guidance, the DfE will then make the final decision on the preferred bidder and make their decision known to the LA.

10. The LA has followed the DfE guidance throughout the process, invited bidders, and involved the local community in setting the criteria and evaluation procedure.

Environmental and climate change considerations

11. The scope of works being proposed for the proposed development will comprise new buildings. These will be designed to ensure compliance with Wiltshire's renewable energy and environmental requirements as well as building control and other statutory requirements.
12. No matter the scope, a sustainable construction strategy will be adopted. The new build shell will incorporate high levels of insulation to meet Part L 2010 of the Building Regulations. High standards of energy efficiency will be met and this will be coupled with high quality ventilation. All occupied spaces will be designed to provide good levels of day lighting.
13. The biodiversity of the sites' ecological system will be considered and improved. Existing trees will be retained where possible. Eco-habitat areas will be incorporated or protected if existing.
14. To promote sustainable modes of transport, green travel plans will be developed by each school involved and their staff, pupils and visitors will be encouraged to walk, use public transport or cycle, and cycle storage will be provided.
15. As academies, the schools' operations fall under the council's Scope 3 Green House Gas emissions ie emissions from sources not owned or directly controlled by the council but related to the council's activities. The council recommends the appointed Academy Trusts adopt efficient energy management once the schools are operational to minimise carbon emissions and thereby their impact on the environment and climate change.

Equalities Impact of the Proposal

16. When making decisions the Council must act reasonably and rationally. It must take into account all relevant information. It must also comply with its legal duties, including relating to equalities.
17. As public bodies schools and local authorities have duties, known as the 'public sector equalities duties' under S 149 the Equality Act 2010. S 149 Equality Act 2010 requires public authorities to:
 - 17.1 Have due regard to the need to:
 - a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the 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. The protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

17.2 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

17.3 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Tackle prejudice, and
- b) Promote understanding

Compliance with the duties in this section may involve treating some persons more favourably than others.

18. The Equality Act 2010 places separate duties on Local Authorities as the responsible body (alongside the governing body) for schools maintained by the local authority. The Act provides protection for people with certain 'protected characteristics'. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

19. In the field of education in schools the prohibition of discrimination, harassment and victimisation does not apply where the circumstances relate to age, marriage or civil partnership.
The duties in relation to schools are:

19.1 Not to discriminate against a person:

- a) In the arrangements it makes for deciding who is offered admission as a pupil
- b) As to the terms on which it offers to admit the person as a pupil

c) By not admitting the person as a pupil

19.2 Not to discriminate against a pupil:

- a) In the way it provides education for the pupil
- b) In the way it affords the pupil access to a benefit, facility or service
- c) By not providing education for the pupil
- d) By not affording the pupil access to a benefit, facility or service
- e) By excluding the pupil from the school
- f) By subjecting the pupil to any other detriment

19.3 Not to harass:

- a) A pupil
- b) A person who has applied for admission as a pupil.

19.4 Not to victimise a person:

- a) In the arrangements it makes for deciding who is offered admission as a pupil
- b) As to the terms on which it offers to admit the person as a pupil
- c) By not admitting the person as a pupil.

19.5 Not to victimise a pupil:

- a) In the way it provides education for the pupil;
- b) In the way it affords the pupil access to a benefit, facility or service;
- c) By not providing education for the pupil;
- d) By not affording the pupil access to a benefit, facility or service;
- e) By excluding the pupil from the school;
- f) By subjecting the pupil to any other detriment.

20. The Academy Trusts recommended in this report are required to comply with these duties. The interview panel confirmed with the chosen Academy Trusts that they are aware and understand these duties.

Risk Assessment

21. It is recognised that the pupil projections may either be an under or over-estimate of future numbers and thus become less accurate the further into the future they go. Projections are kept under review as new data becomes available, including the termly pupil censuses and live births. In planning for new schools, the Council looks to provide places in geographical areas of increased demand arising from residential development and/or rising birth rates. Applying risk management assessment principles can help strategic decision makers make informed decisions about appropriateness of adopting policy or service delivery options.

Risks that may arise if the proposed decision and related work is not taken

22. Risks that may arise if the proposed decision and related work is not under taken:

Risk

- a) The LA will not carry out its statutory duty to provide sufficient school places
- b) The LA will not be compliant with S106 agreements with developers and planning

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

23. Risks that may arise if the proposed decision is taken and actions that will be taken to manage those risks:

Risk	Action to mitigate the risk
1. Project Delay	Active monitoring
2. Budget over run	Active monitoring
3. Quality	Active monitoring

Active Monitoring - Effective management of risks involves:

- a) identifying possible risks in advance and putting mechanisms in place to minimise the likelihood of their materialising with adverse effects
- b) having processes in place to monitor risks, and access to reliable, up-to-date information about risks
- c) the right balance of control in place to mitigate the adverse consequences of the risks, if they should materialise
- d) decision-making processes supported by a framework of risk analysis and evaluation.

Financial Implications

24. The capital cost of the new school in Trowbridge and the creation of the playing fields are being funded by the developer. In Tidworth the costs are funded from section 106 agreements with developers and DfE basic need allocations. For lead-in and set up costs, the DfE will discuss with the LA on a case by case basis to identify and agree the most appropriate mechanism to meet these. Until longer term funding arrangements are agreed, the expectation is that local authorities will contribute to these costs. After the DfE have agreed on their preferred bidder the Education Funding Agency, the LA and the successful bidder will have to meet to agree on how set up and lead-in costs are met as no funding will be provided by the developer through the 106 agreement for these costs.
25. Ongoing revenue funding for the schools will be determined by Wiltshire's local funding formula for schools. As academies the schools will be directly funded by the Education Funding Agency (EFA) applying

the Wiltshire local formula. The funding will be top sliced from the Council's Dedicated Schools Grant (DSG) allocation in the same way as funding for all other academies.

26. There will also be an element of advanced funding required for each school and this will need to be met from the Council's Dedicated Schools Grant (DSG). As required under the Schools & Early Years Finance (England) Regulations 2012 the Council retains a proportion of the DSG allocation as a growth fund to enable funding of significant pupil growth arising from Basic Need. Under the regulations the School's Forum must agree criteria for the allocation of that growth fund, including the allocation of funding for new schools prior to opening to fund the appointment of staff and to enable the purchase of any goods and services necessary in order to admit pupils.
27. Provision will need to be made from the growth fund in the current financial year to support the appointment of a new head teacher and business support within each of the two schools. Initial funding of £55,000 for each school will be made available during the spring term of 2014 and this will be funded from the growth fund in the 2013-14 financial year. A further allocation to support the appointment of a Head Teacher and Business Support prior to the opening of each school will need to be made available from the 2014-15 growth fund. The schools will then receive funding from September 2014 based on estimated pupil numbers.

Legal Implications

28. Councils have a statutory duty to ensure that there are sufficient school places in their area, to promote high educational standards, to ensure fair access to educational opportunity and to promote the fulfilment of every child's educational potential. They must also ensure that there are sufficient schools in their area and promote diversity and increase parental choice.
29. On 1 February 2012 Section 37 of the Education Act 2011 was commenced, including Schedule 11 of the Act. This made changes to Part 2 of the Education and Inspections Act 2006 in relation to the process for establishing new schools, including the Academy/Free School presumption. The "presumption" in the guidance required LAs to establish an Academy/Free School in the first instance where they identified the need for a new school.
30. The guidance published by the DfE details the process that Local Authorities and new school proposers have to follow. The LA has followed the DfE guidance throughout the process.
31. Advice has been sought from the Head of Legal and Democratic Services who supports the process we have followed.

Options Considered

32. The only option open to Cabinet would be to not accept the recommendation of the interview panels and ask for the process to be re-run. However at each stage of the process the DfE guidance was followed or further advice was sought from the DfE and the recommendation to Cabinet was that the whole process was a valid one and that the panel's recommendation should be accepted.

Conclusions

33. Cabinet is asked to make a decision on the selection of preferred bidders taking into account the information contained in this report and the information on the preferred bidders which will be provided during Part II of the meeting

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Date of report: 10 June 2013

Background Papers

The following unpublished documents have been relied on in the preparation of this report:

None

Appendices

Appendix A (six documents)

1. East Trowbridge background information
2. East Trowbridge school specification
3. East Trowbridge application form
4. Tidworth (NEQ) background information
5. Tidworth (NEQ) school specification
6. Tidworth (NEQ) application form

Appendix B

A summary overview of the relative strengths of each applicant in relation to the application criteria – recommended to be considered in Part II of the meeting.
