

CABINET

23 NOVEMBER 2023

THE NEW FOXLYDIATE FIRST SCHOOL

Relevant Cabinet Member

Councillor Tracey Onslow
Councillor Adam Kent

Relevant Chief Officer

Director of Children's Services
Director of Commercial and Change

Local Member

Councillor Kit Taylor

Recommendation

1. **The Cabinet Member with Responsibility for Education recommends that Cabinet:**
 - a) **Agrees that a new First School in Foxlydiate Redditch will be built to address the impact of new housing as identified in this report;**
 - b) **Notes the progress made to date on the delivery of a new First School and endorses the pre-publication engagement with stakeholders undertaken between 4 July and 4 August 2023 as outlined in paragraphs 17-21 and notes the outcome;**
 - c) **Notes the funding sources identified to deliver the new school as detailed in the September 2023 Cabinet report;**
 - d) **Notes that Full Council approved an increase to the capital programme from £11m to £14.52m in order to deliver a new three form entry first school and nursery, when it met on 9 November 2023;**
 - e) **Authorises the consultation on the proposed school specification as outlined under paragraphs 22-24 and Appendix 3;**
 - f) **Authorises the Cabinet Member with Responsibility for Education, in consultation with the Director of Children's Services, to approve the specification having regard to any representations made during the consultation period;**
 - g) **Authorises the procurement of support services as outlined under paragraphs 25 - 38;**

h) Authorises the following delegations for the new Foxlydiate First School subject to Cabinet / Council approval of capital budget:

- i. Cabinet Member with Responsibility for Education, in consultation with the Director of Children's Services, to approve the Academy Sponsor school specification having regard to any representations made during the consultation period; and Academy Sponsor presumption competition; and**
- ii. The Strategic Director of Commercial and Change in consultation with the Director of Children's Services to undertake all necessary steps to implement the project within the funding envelope agreed by Cabinet / Council including any regulatory consents and contracts required including the completion of a pre-planning public engagement exercise and the preparation and submission of Planning Applications.**

Background

2. The Local Authority has a statutory requirement to ensure a sufficiency of school places for all children and young people of statutory school age for their area as outlined in the Education Act 1996 Section 14.

3. The five-year strategic School Organisation Plan "Good Education Places for all Worcestershire Children" was approved by Cabinet in December 2018 and outlines the 5-year programme to meet our Statutory duty to ensure a sufficiency of school places for children in Worcestershire.

4. Along with this statutory duty, the Worcestershire's Education and Skills Strategy 2019-24 was approved by Cabinet in September 2019 and shapes the Worcestershire vision and aims for education provision by 2024.

5. In February 2023, Cabinet received the annual update report on Education Sufficiency¹, including the Mainstream Sufficiency Report, which detailed several strategic housing development sites planned in Worcestershire over the next few years including Foxlydiate and Brockhill, where the need for a new First School had been identified.

Redditch Education Planning Area

6. The Redditch Education Planning Area (EPA) is made up of the town of Redditch and the immediate surrounding areas. The majority of the area encompasses the Redditch District Council, but also covers a small area of the Bromsgrove and Wychavon Districts. The planning area is served by seventeen First Schools (Years R-4), three Primary Schools (Years R-6), six Middle schools (Years 5-8), three High Schools (Years 9-13) and one Secondary School (Years 7-13).

¹ <https://worcestershire.moderngov.co.uk/ieListDocuments.aspx?CId=131&MIId=5996&Ver=4>

7. Over the last 5 years, the Redditch Education Planning Area has supported an average of 11,923 pupils annually across all year groups. Over the following 4 years, this is anticipated to stabilise to around 12,200 pupils for the next few years.

Demand for a new First School

8. A major new housing development in the Foxlydiate area of Redditch will attract families with children, and this will create demand for additional childcare and school places. Typically, a new first or primary school may be required where a housing development contributes 300 or more dwellings or in areas where no potential school expansions can be identified. The scale of the forecast increased demand means a new first school with nursery is needed.

9. The new major housing development off Foxlydiate Lane, Redditch is planned to deliver 2,560 new houses by 2037. As per the Education Planning Obligations Policy² position, the average expected pupil product ratio (PPR) per dwelling is 0.05 pupil yield. The PPR is based on evidence taken from housing developments previously built and occupied in Worcestershire. Applying this yield to the development expected build out rate for dwellings is likely to yield a demand for an additional 30 first school places per year group by 2027 and 51 first school places per year group by 2029 and **over 100 pupils per year group by the time the development is completed** and fully occupied. Other developments in the area (e.g. Brockhill) will also generate additional pupils and will increase the pressure on school places. **The combined demand from Brockhill and Foxlydiate developments equates to an additional 49 first school places per year group by 2027, rising to 62 first school places per year group by 2028 and 91 first school places per year group by 2030. By 2037, we estimate this will have increased to 178 pupils per year group. The construction of a new first school, combined with expansion of existing schools will therefore be necessary to meet demand over-all.**

10. The school will open initially to Reception-aged children and will grow over time as it will take a new cohort of Reception children each September.

11. The delivery of a new school in the Foxlydiate area will ensure sufficient places in the locality and ensure an element of surplus which will ensure that:

- Families have an element of choice, and increases the likelihood that families receive one of their top two preferences
- All children who move into the locality during the school year are offered provision within 20 days
- All children who want to access a place in their local community can do so, reducing school travel times.

Demand for other education provision

12. The major housing developments will also yield additional middle and high school pupils. If additional school places are required to mitigate the impact of the housing developments, these will be created by expanding existing local schools. A S106 contribution based on a cost per pupil dwelling for the provision of either two forms of

² <https://www.worcestershire.gov.uk/planning/school-planning-obligations>

expansion (2FE), to expand either Birchensale Middle School or Walkwood CE Middle School, has been agreed.

13. At the time of the S106 Assessment there was sufficient capacity to absorb the proposed additional high school age pupils likely to be generated from this proposal.

14. Current forecasting across the next 5 years suggests there are sufficient High School places in Redditch to accommodate the additional children from this development. We will continue to monitor existing school capacity and demand ahead of recommending any further expansions to Middle or High provision.

New First school location

15. The planning application for the Foxlydiate development (B/16/0263 & 2016/077) was submitted to Bromsgrove District Council and Redditch Borough Council in 2016 for the erection of up to 2,800 dwellings; a local centre including retail space; health and community facilities and a 3 Form Entry (FE) (90 places per year group) First School including associated playing area and parking. The planning applications were approved in September 2020. The Section 106 Agreement was subsequently signed in January 2022 for £ 7.471m in total (this is subject to indexation).

16. The land on which the First School will be provided has been agreed with the Housing Developer as part of the Section 106 Agreement as 2.8 hectares in area. Appendices 1 and 2 show the site boundary for the school site, within the boundary of the new housing development. As per S106 Agreement, the school site is to be handed over to the Council prior to the completion of the 30th Dwelling or within 9 months of the construction of any dwelling (whichever is the earlier), therefore it is expected that the school site will have its own haul road.

Pre-Engagement

17. Local Authorities that have identified a need for a new school are expected to follow the Free School presumption process and guidance including running a presumption competition. Before launching the competition, local authorities should decide how to consult on the proposed new school and with whom. This is not a formal statutory consultation.

18. Ahead of the Local Authority consultation on the new school specification, stakeholders were invited to provide their views in a four week-engagement exercise running from 4 July - 4 August 2023. This involved an online survey which was advertised through the County Council website, social media, the local media, via the Worcestershire Viewpoint panel and local schools to seek initial views about the potential development of a new school.

19. 183 responses were received to the survey. The majority of respondents were residents of Redditch or immediate surrounding area (54%) and/or parent/carers of a school age child (52%) and/or members or staff or Governors of schools or early years providers.

20. The full outcome of the results and how these have impacted on the proposal is outlined in Appendix 4 and key points summarised below:

- a. Most respondents agreed that a new first school is needed for the Foxlydiate area. 75% of respondents either agreed or strongly agreed, just 14% of respondents disagreed or strongly disagreed, 9% neither agreed nor disagreed and 2% were unsure. Examples of feedback from those who disagreed predominantly included that there was a more prominent need for a new middle or high school and that existing schools should be expanded instead. As described in paragraphs 12 and 14 analysis of need has been taken into account.
- b. The top five aspects that were considered very important were that pupils feel safe at school; the school has facilities to deliver a broad and balanced curriculum; pupils feel their health and well-being is well supported; the school has a positive and respectful school culture; and pupils feel motivated and have a positive attitude to learning.
- c. Enabling pupils to travel to the school via active travel routes was extremely important for respondents due to the health and environmental benefits of walking and cycling. Walking was voted as the preferred option by the majority of respondents, with cycling being the most popular 2nd preference.
- d. Specific provision for pupils with Special Education Needs and Disabilities (SEND); access to digital technology; library facilities and additional learning; sports facilities; extracurricular activities and wrap around care were also deemed important facilities at the new school.
- e. 97 of the 169 of respondents who provided their 1st preference (57%), said that first priority should be given to pupils within a defined geographical area (catchment area).

21. The responses have been considered and updates made to the school specification ahead of Cabinet approval for formal consultation.

Local Authority consultation on the school specification

22. Before publication of the call for free school proposals and the final specification of the new free school, local authorities should consult on the proposed new school. The draft specification for the school is now recommended for consultation. This specification will shape the requirements for finding the right Academy Trust to operate the school and enable stakeholders to comment on factors such as the location, size, and values of the school. The draft specification is attached as Appendix 3.

23. It is recommended that the Local Authority consultation is undertaken from 8 January – 19 February 2024.

24. Regard will be had to any representations made during the consultation period to finalise the school specification ahead of the Academy Sponsor Competition. Cabinet is requested to authorise the delegation of the final school specification and Academy Sponsor presumption competition to the Cabinet Member with Responsibility for Education, in consultation with the Director of Children's Services.

Procurement and Delivery of Design and Build Contractor

25. The overall strategy for procuring the design and construction of the building has been to seek to minimise risk, ensure risk remains with the organisation best placed to manage it and benefit from standardisation to reduce cost on future new schools.

26. The strategy is to initially employ the professional team to develop the project to RIBA stage 2 (Concept Design). While developing this for Foxlydiat school, the advisers will develop a standard set of designs and specifications that can be used on future new First / Primary schools. The design responsibility will then be taken from RIBA stage 3 (Outline design) through planning and into construction by a Design and Build contractor.

27. The following table summarises the cost management during the life of the contract:

Cost Certainty		
Stage	Responsibility	Accuracy
RIBA 0 Definition	Consultants estimate	High level estimate
RIBA 1 Brief – 2 Concept design	Employers Agent/Cost Manager	Refined estimate including site abnormalities and risk register
RIBA 3-Technical - 4 Design	Contractor - agreed by Cost Manager	Design developed and completed with cost envelope
RIBA 5 Construction – 7 Handover	Contractor - monitored by Cost Manager	Construction contract signed. Construction price fixed with client-side priced risk register informing contingency

28. Site risks will be investigated and priced under a pre-construction agreement allowing issues to be designed out rather than priced as risk before we enter construction.

29. The construction risk remains with the construction contractor, the party best placed to manage it. The process has a key gateway on completion of the design where, if the Council is not content with the proposed construction contract, it will own the design and can take it back to competition.

30. The following procurements are required to deliver this project:

- a) Employers Agent, Cost Management and Health and Safety Advisers
- b) Technical Advisers
- c) Design and Construction Contractor.

31. Employer's agent, cost management and health and safety advisory services will be the first appointment as a package. The Cost Manager will develop the cost framework and initial estimates with the employer's agent taking overall responsibility for delivering the construction project throughout its life within budget. The procurement strategy for this was approved at Commercial Board in July 2023.

32. A technical adviser service will be procured to develop the initial design, monitor the design on behalf of the client and provide a clerk of works during the construction phase. The procurement strategy for this was approved at Commercial Board in August 2023 subject to Cabinet approval in September 2023 and Full Council in November 2023.

33. A design and construction contractor will be procured to complete the technical design and surveys, undertake the ground works, and build of the school.

34. Following detailed analysis of the current construction market and discussions with several potential suppliers it has been identified that several external influences continue to affect the availability of resources, supplies and price in an unpredictable manner. As a result, most suppliers will not currently bid on a single stage basis.

35. It is therefore proposed to engage the contractor on a two-stage contract. The first stage will be carried out under a Pre-Construction Agreement which allows the contractor to undertake further site investigations, complete the technical design and develop work packages which will be tendered by the contractor to establish the actual cost of construction. Subject to the agreement of a satisfactory price, the contractor will then proceed to the second stage whereby they will construct the school for a fixed price.

36. The proposed procurement procedure for the selection of the contractor is a Competitive Procedure with Negotiation. An initial Supplier Selection Process to select up to 4 participants will be carried out.

37. The successful participants are then invited to submit a tender to deliver the works detailing overheads, profit, proposed methodology, the skills of their team, their approach to working in partnership and a commitment to deliver the project within the available budget and programme. There then follows a dialogue with each bidder to discuss their design, delivery, legal and commercial proposal. Tenderers would then be invited to submit their best and final bids.

38. The construction contractor procurement is estimated to take about 3 months.

39. The officer project board will work with relevant interested parties to develop a shared development vision with defined outputs. The intention is that the Project Board will appoint professional advisers in support of the preparation of the development vision and specification having regard to procurement methods, land use allocations and design.

40. Planning permission will be required to deliver a new first school and the planning process will be undertaken as part of the scheme to deliver the new school. A planning application will not be submitted unless it is clear that there is no planning impediment to delivery.

Indicative Timeline

41. Ensuring sufficient due diligence and ensuring the vision and design of a new First School requires forward planning and decision making. If approved, the planned opening date for the new First School at Foxlydiate at Redditch will be September

2027 when the demand for additional places from the new housing can no longer be mitigated within the existing schools.

42. The indicative timeline for the delivery of the new First School includes:

Academy Sponsor Competition:

- 8 January – 19 February 2024 - Consultation on School Specification
- Feb - March 2024 – Finalise Specification following consultation
- March - June 2024 – Launch Academy Sponsor Competition
- June 2024 – Submit recommendation of Academy Sponsor to DfE
- July / August 2024 – DfE Appoint Academy Sponsor.

Procurement of Contractor and delivery of the new school:

- June 2023 – Appointment of Procurement Manager
- December 2023 – Tender for Employers Agent and Quantity surveyor, and Technical Advisor and award of contract
- March 2024 – Tender for Design and Build of new school
- July 2024 – Design and Build contractor awarded
- Summer 2025 – start on site
- Summer 2027 – new school build complete.

Legal, Financial and HR Implications

Finance

43. The September Resources Cabinet report included £11m for a 2FE First School with nursery based on the indicative costs established in August 2022 by a third party. Subsequently due diligence has been undertaken and a further assessment has been commissioned through a professional services company to assess all new school indicative costs and include contingency and start-up costs.

44. The updated estimated build cost for a 3FE (90 places per year group) First school with nursery is £14.52m. The estimated cost of a 2 FE equivalent school is £11.14m. These estimates include contingency, pre-start up feasibility and Academy Sponsor start-up costs. By 2027, an additional 2 forms of entry of provision will be required to mitigate the sufficiency of First School places from these developments. By 2029, the additional 1FE will be required.

45. Based on this assessment it is proposed to open the school as a 3FE (90 places per year group) First School with nursery rather than expand the school from a 2FE to 3FE within 2 years of opening. The £14.52m funding approval is requested in the November Resources report to Cabinet and subject to full Council approval in January 2024.

46. The build of the new school is funded principally from a £9.4m Section 106 Education Obligations contribution (including RPI indexation) and the shortfall from Basic Need allocations ahead of any other S106 Agreements in the locality. The Section 106 Agreement includes the trigger points at which the developer is required to make payments. It is anticipated that the trigger points at which S106 contributions will be paid to the Council will fall some time after the building costs are defrayed. The impact of this is that Basic Need may need to 'forward fund' anything up to the full cost until S106 payments are received, and Basic Need can be reimbursed. It is

expected this is common for Education Capital projects around new housing developments.

47. The proposed new first school is to mitigate the impact of major new housing and is proposed to be built within the new housing development, therefore there should be minimal requirement for home to school transport for pupils living within the locality of the new school (2 miles for primary age children).

48. It is anticipated that the pre-opening funding required to support the set-up costs for the key appointments e.g., Headteacher and School Business Manager will require a maximum contribution from the Council of £100k. This has been included in the cost estimates in paragraph 44.

49. As the new school will be a free school, the successful Academy Sponsor will need to enter a revenue funding agreement with the Secretary of State for Education, with the Education and Skills Funding Agency directly funding the ongoing revenue costs of the school. The DfE currently provides £25,000 for legal expenses to the successful Academy Sponsor.

50. Other revenue funding required for the delivery of the school, for example the support services and project management services, are not yet fully known. It is anticipated these costs will be capitalised against the project, and updates will be made through the usual capital approval route.

Legal

51. Local authorities must plan and secure sufficient places in their area in line with its duties under section 14 of the Education Act 1996. Section 6A of the Education and Inspections Act 2006 requires that when a local authority identifies a need for a new school in its area, it must seek proposals to establish an academy (free school). The Department for Education has issued The Free School Presumption non statutory Guidance³ which applies to all schools established following the process under the Section 6A. The proposed new Foxlydiat First School will follow the free school presumption route. Local authorities are expected to determine the specification of the school as well as lead and fund the capital project, including the delivery of the site and the buildings solution and work with the approved sponsor during the pre-opening phase, which will include the sponsor undertaking statutory consultation under section 10 of the Academies Act 2010.

52. Implications for Planning Permission, the s.106 contribution payments and land acquisition are set out in the body of this report.

Human Resources

53. There are no HR implications because of the recommendations of this report albeit new school provision or expansion of school provision will create additional employment opportunities across the build and operational period of the school.

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1130565/Free_school_presumption_guidance.pdf

Risk Implications

54. This report outlines the recommendations necessary to ensure a sufficiency of first school places for Redditch necessitated by major housing growth. Without such progress, the County Council is at risk of failing in its statutory duty to provide sufficient school places, as outlined in the Education Act 1996 Section 14. The County Council could also be at risk of failing to meet the aims agreed under the Education and Skills Strategy.

55. The risks associated with such a development, for example adverse ground conditions and planning restrictions, will be explained and mitigated within due process of the project.

56. Risk in Current Market (risk level: Medium): Cabinet needs to be aware that valuations at this time are caveated in relation to uncertainty about future market conditions. The current project cost estimates are based on current predictions, these are therefore estimates and until a contract price is agreed for the build of the school there is a risk of change. To help manage that risk from the outset a prudent inflation rate and contingency has been applied to the estimated construction cost based on what we know today. There are several factors that could change those estimates, up and down, and clearly site condition, inflation and highways are key but at this stage it is not practicable to determine the impact these could have, as such the risk is mitigated to medium subject to further work. If that were to change which, as with any project at this stage, there is always a higher likelihood and should the impact become higher we would need to assess options to mitigate as far as possible a higher risk through procurement and construction strategies, and we will update those charged with governance on the ongoing costs and funding as part of the project and budget monitoring.

57. Risk that housing build out will slow (risk level: Medium): Cabinet needs to be aware that the delivery of the new school and timescales for payment of S106 education contributions is based on the housing build out trajectory provided by the housing developer(s). The latest update was received in May 2023 indicating site works would begin later in 2023 with the first dwellings being completed in 2024. The Council has requested to be updated if timescales or build out rates change to ensure plans for additional school places are delivered at the right time. This aspect of risk management will be overseen by the WCC/WCF steering group.

Joint Equality, Public Health, Data Protection and Sustainability Impact Assessments

58. As part of the planning process for new schools, local authorities should also undertake an assessment of the impact of the proposal, both on existing educational institutions locally and in terms of the impact on particular groups of pupils and others from an equality's perspective.

59. The Joint Impact Assessment screening has been carried out in respect of this proposal. It identified that further impact analysis will be required to be carried out in respect of: Equality and Public Health, and Sustainability.

60. A full Equality and Public Health, Data Protection, and Sustainability Impact Assessment has been carried out in respect of the recommendations. These identified potential negative impact for: Public Health. The potential negative impact relates to:

- Mental health and well-being: Construction operations during the development stage including increased vehicle movement, noise etc. Disturbance and stress caused by construction activity could impact on mental health of nearby residents – options will be considered such as limiting the disturbance levels and adjusting the vehicle movement and operation hours to benefit surrounding communities.

61. Notwithstanding the potential negative impact, the recommended course of action can be justified because all potential negative impacts can be mitigated for and reduced as part of the planning, procurement, and construction process through established techniques. Moreover, the potential positive impact on all the impacted areas outweighs the potential negative impacts following mitigation.

62. The mitigating actions have been identified throughout the joint impact assessments in Appendices 5 and 6.

Supporting Information

- Appendix 1: Foxlydiate (“The Site”) Red Line Boundary plan
- Appendix 2: map of school site with major housing development and other local schools shown
- Appendix 3: Proposed new Foxlydiate First School Specification
- Appendix 4: Engagement Results
- Appendix 5: Environmental Sustainability Impact Assessment
- Appendix 6: Equality and Public Health Impact Assessment

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Director of Children’s Services) the following are the background papers relating to the subject matter of this report:

[February 2023 Education Sufficiency Annual update and Appendix 1 Mainstream Sufficiency Report](#)

[September 2023 Resources Report to Cabinet](#)