

## **Report to the Cabinet**

Meeting to be held on Thursday, 11<sup>th</sup> June 2020

### **Report of the Head of Service - Asset Management**

#### **Part I**

Electoral Division affected:  
Clitheroe;

### **Process for Commissioning a New School, Including Potential New Primary School for Clitheroe**

(Appendices 'A' and 'B' refer)

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#### **Executive Summary**

This report updates Cabinet on the process and decision making arrangements for commissioning a new school, including an update to the assessment framework, (last agreed by the Cabinet Member for Children, Young People and Schools in September 2014) taking into account the most recent guidance from the Department for Education. It also seeks permission to commence the consultation process with regard to the commissioning of a new primary school on the Higher Standen Farm site in Clitheroe.

#### **Recommendation**

Cabinet is asked to:

- (i) Note the information contained within the report and appendices.
- (ii) Approve the use of the updated Department for Education 'Establishing a New School: Free School Presumption' guidance and associated framework.
- (iii) Subject to approval of (i) and (ii) above, approve the undertaking of a consultation on the establishment of a new primary school in Clitheroe, in accordance with the process and framework contained within this report.

## **Background and Advice**

The current strategy for the provision of additional school places is to invest in existing good or outstanding schools with high levels of applications for admission. This policy has proved successful and continues to be applied wherever possible. Almost 4000 additional school places have already been provided. However, in some areas of the county, the available expansion options are diminishing or are already limited due to site restrictions. In addition, parts of the county are experiencing significant new housing concentrated on very large sites that lend themselves to the establishment of new provision, rather than the expansion of outlying existing schools, due to the scale of development.

It is important that the local authority has mechanisms in place to commission new schools before the need arises. This report sets out a proposed process; timescales; and decision making arrangements to effect a local authority recommendation to the Secretary of State for Education. It takes into account guidance issued by the Department for Education, most recently updated in November 2019, which provides model templates for local authorities to set out the specification for new schools, together with a model application form for proposers and assessment criteria for authorities.

## **Academy Presumption**

The Education and Inspections Act 2006 (as amended by the Education Act 2011) introduced the presumption that, when a local authority decides that a new school is needed, it must seek proposals for the establishment of a free school. All such proposals require the Secretary of State to consider the Local Authority's assessments and preferences before making a final decision to approve. If the free school presumption route does not result in a suitable free school sponsor, a statutory competition can be held with the consent of the Secretary of State.

In addition, guidance and support can be provided by the New Schools Network which provides free advice, guidance, resources and support to local authorities looking to open new free schools. <https://www.newschoolsnetwork.org/>

## **Legal Requirements**

The Department for Education document 'The Free School Presumption' dated November 2019 provides advice and guidance to local authorities to assist with compliance with Section 6A of the Education and Inspections Act 2006, in commissioning new schools.

The Department for Education also announced the voluntary aided capital scheme to support the establishment of new voluntary aided schools by both faith and non-faith groups in May 2018. However, in ongoing discussion with diocesan colleagues, there are currently none pursuing live applications of new schools via this route.

There are also no current applications to establish new free schools, pending via Wave 14 of the 'central route' known to Lancashire County Council, whereby sponsors engage directly with the Department for Education to commission a school.

The November 2019 guidance 'Establishing a New School: Free School Presumption' guidance and associated framework, (available at <https://www.gov.uk/government/publications/establishing-a-new-school-free-school-presumption>) aims to provide greater clarity to authorities on the process, and now sets out model templates for School Specification (Annex A); Application Form for potential sponsors (Annex B) and Model Assessment criteria (Annex C). It should be noted that the main body of the guidance now includes greater emphasis on the expectation that the authority will financially 'underwrite' a new school.

When considering a local authority's assessment, the Department for Education will particularly focus on strategic vision, educational plan, capacity and capability and operational capacity and governance. The proposal should give strong, credible evidence that the new school will raise the overall standard of education available in the local area, adding high quality places to the system.

The local authority may state its preferred proposer or ranking of proposers, which the Secretary of State will take into consideration when deciding whether or not to enter into a funding agreement with any of the proposers.

### **Assessment Framework**

The type of school to be delivered would be determined by the Director of Education and Skills, as part of the development of the specification for the new school. Potential proposers would need to evidence that they met the school specification via their application which would provide part of the information against which the proposals would be judged.

Whilst not a statutory requirement, it is recommended that a public meeting is held at which representatives from each potential proposer presents their proposals and answers questions. Arrangements for public engagement on this subject will take into account relevant government guidance and Covid-19 safety measures. The information provided and feedback from this activity will assist with the selection process.

### **Processes and Timescales**

It is expected that the commissioning and selection process could take up to 11 months, from the identification of need to the final decision by the Secretary of State. However, it is generally expected to take over three years from identification of need to opening a new establishment. This can present a major challenge when commissioning primary school places, particularly as Lancashire has not yet commissioned a new school via the presumption route.

### **Decision Making Arrangements**

The Secretary of State will make the final determination in respect of the successful proposer. However, the local authority has a critical role to play in ensuring a robust assessment and selection process for recommendation to the Secretary of State for consideration, with the recommendation being made by Cabinet.

## **Commissioning a new primary school in Clitheroe**

Should Cabinet agree to the updated arrangements set out above, it is anticipated that the first new school where a requirement has been evidenced is in the Clitheroe School Planning area of Ribble Valley.

The council has already taken steps to address growth as a result of housing development in the neighbouring Langho and Whalley School Planning area, providing 175 additional primary school places across 4 schools. However, housing development in the Clitheroe area will require additional mitigation, particularly to accommodate the pupils yielded by the development underway on land at Higher Standen Farm, Pendle Road, Clitheroe.

The Section 106 agreement for this development contained provision for a site for a new primary school, with a transfer cost of £1, together with contributions toward the provision of school places. The 1,040 dwellings to be delivered at Higher Standen Farm are contained within the adopted Ribble Valley Core Strategy and there is strong support from both Ribble Valley Borough Council and from the Higher Standen Estate land owner (Taylor Wimpey) for provision of the new school on site at the earliest opportunity.

Pupil projection background information is provided at Appendix 'A'.

With the timeframe for the establishment of a new school estimated at over 3 years, it is proposed that, should a decision be made to start the commissioning process for a new school, it may be necessary to provide temporary additional places in existing schools for 2023, pending the competition and build processes for a new school to open in September 2024.

It is proposed that, if a new school is established, in the first instance it would be commissioned as a one form entry primary (210 capacity). However, it should be noted that there are a further 800 properties to be built on the site in a later phase.

Therefore, it is recommended that, if a new school is commissioned on the site, it should be designed with the ability to expand at a future date. This approach was taken when Trinity CE Methodist Primary school (the last new maintained primary school to be commissioned by the council) was established in 2010, before 2 subsequent phases of expansion, in order to safeguard existing provision.

## **Consultations**

Consultation would be in the form of a 6 week informal consultation which, subject to Cabinet approval, would be followed by a statutory competition period. The consultation will be in line with statutory guidance.

There are established mechanisms to support consultation through the sector led groups: LASSH, LASHTA and PHIL (secondary, primary and special school groups) as well as the locality based groupings of schools that are supported by allocated area based Senior Advisers within the Advisory Service.

A process timeline has been provided at Appendix 'B'.

## **Risk management**

This item has the following implications, as indicated:

### Legal

The local authority is under a statutory obligation to ensure the sufficiency of high quality school places in its area. In order to be equipped to continue to deliver this obligation, it is necessary to be able to commission a new school when other options either do not exist or potentially offer less favourable outcomes for children and young people.

### Financial

Should the commissioning of a new school be approved, then it is both the responsibility of the local authority and successful sponsor to manage any associated risks, and to ensure the ongoing financial (and educational) viability of the school. This means the authority will need to ensure that there is clarity around risks that sit with the authority with regard to the financial viability of the school and those that will be transferred to the successful sponsor.

In addition to the above, if after opening the pupil numbers at the school are below the school's break-even number, the local authority and successful sponsor will need to provide reassurance to the department as to how the school will be educationally and financially viable. This raises the expectation that the authority will have clear plans and solutions with the successful sponsor on pupil numbers and financial plans to minimise the authority's risks and liabilities.

Should the commissioning of a new school be approved, then there is an expectation that the site be made available free or on a peppercorn basis by the local authority to the academy trust.

Local authorities are responsible for the start-up costs for new schools, which can be considerable. Should it be proposed that a new school is established, then it will need to be determined as to which elements are funded in the capital project and which elements are to be funded from revenue budgets.

Consultation with the Schools Forum will need to be undertaken by the local authority to determine the criteria and forum policy to be applied in relation to the start-up costs that are to be funded from the Schools Block of the Dedicated Schools Grant.

Within the consultation, it may be necessary to amend the School Forum policy criteria for allocating growth funding to new schools in their pre and post opening periods. As growth funding criteria is annually compliance checked by the Education and Skills Funding Agency, any amendments to the current criteria will need to be checked with them prior to the commissioning of a new school.

Should the commissioning of a new school be approved, the Schools Forum will need to be consulted on the total sum to be top sliced from the Dedicated Schools Grant and the local authority will need to provide the Schools Forum with regular updates on the use of the funding.

The financial risks and impacts on funding are minimised where there is clarity on the financial viability and sustainability plans for a proposed school. Therefore, the commissioning of a new school should only be approved where there is a high degree of certainty on financial viability. Should a school prove not to be financially viable, then in the short term the Dedicated School Grant may underwrite initial financial risks. However, in the medium term the liabilities could significantly accumulate that would then impact on the authority's finances.

The 2019 Department for Education guidance also states:

*Under the presumption route the local authority is responsible for providing the site for the new school and for delivering the capital programme for building the new school. It is the department's expectation that the site be made available free or on a peppercorn basis by the local authority to the trust. The local authority is also responsible for meeting the associated capital and pre/post-opening revenue costs. Basic need capital funding is provided on a non-ring fenced basis, so that local authorities can provide the places that they need, including through new presumption schools.*

### **List of Background Papers**

Paper	Date	Contact/Directorate/Tel
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None		
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Reason for inclusion in Part II, if appropriate		
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