



Essex County Council

## AGENDA ITEM 6

<b>Report to Cabinet</b>	<b>Forward Plan reference number:</b> FP/444/03/16
<b>Date of Cabinet Meeting: 17 May 2016</b>	<b>County Divisions affected by the decision:</b> All Divisions in Colchester District
<b>Title of report:</b> Decision whether to fund expansion of Philip Morant School and College and The Stanway School by two forms of entry each from September 2017	
<b>Report by</b> Councillor Ray Gooding, Cabinet Member for Education and Lifelong Learning	
<b>Responsible Director:</b> Clare Kershaw, Director for Commissioning: Education and Lifelong Learning	
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### 1. Purpose of report

- 1.1. To ask Cabinet to support Philip Morant School and College (PM), and The Stanway School (TSS) proposals to expand by two forms of entry each to increase capacity in readiness for increased Year 7 intakes in September 2017, in accordance with Essex County Council's (ECC) duty to commission sufficient school places.

### 2. Recommendations

- 2.1. Agree that ECC supports the proposed expansion of Philip Morant School and College and The Stanway School by two forms of entry each for 2017 delivery, to meet the forecast demand for additional school places in Colchester.
- 2.2. Approve a total spend of £12.9m for construction and associated project fees from the Capital Programme Budget, at Philip Morant School and The Stanway School, to be proportioned £7.14m and £5.74m respectively, payable in four annual instalments between 2015/16 and 2018/2019, as set out in paragraph 5.5.
- 2.3. Approve £120,000 revenue from the Dedicated Schools Grant (DSG) for loose furniture and equipment in the additional teaching and learning spaces

provided as part of the expansion, to be allocated between the academy trusts by the Head of Infrastructure Delivery in 2017/18.

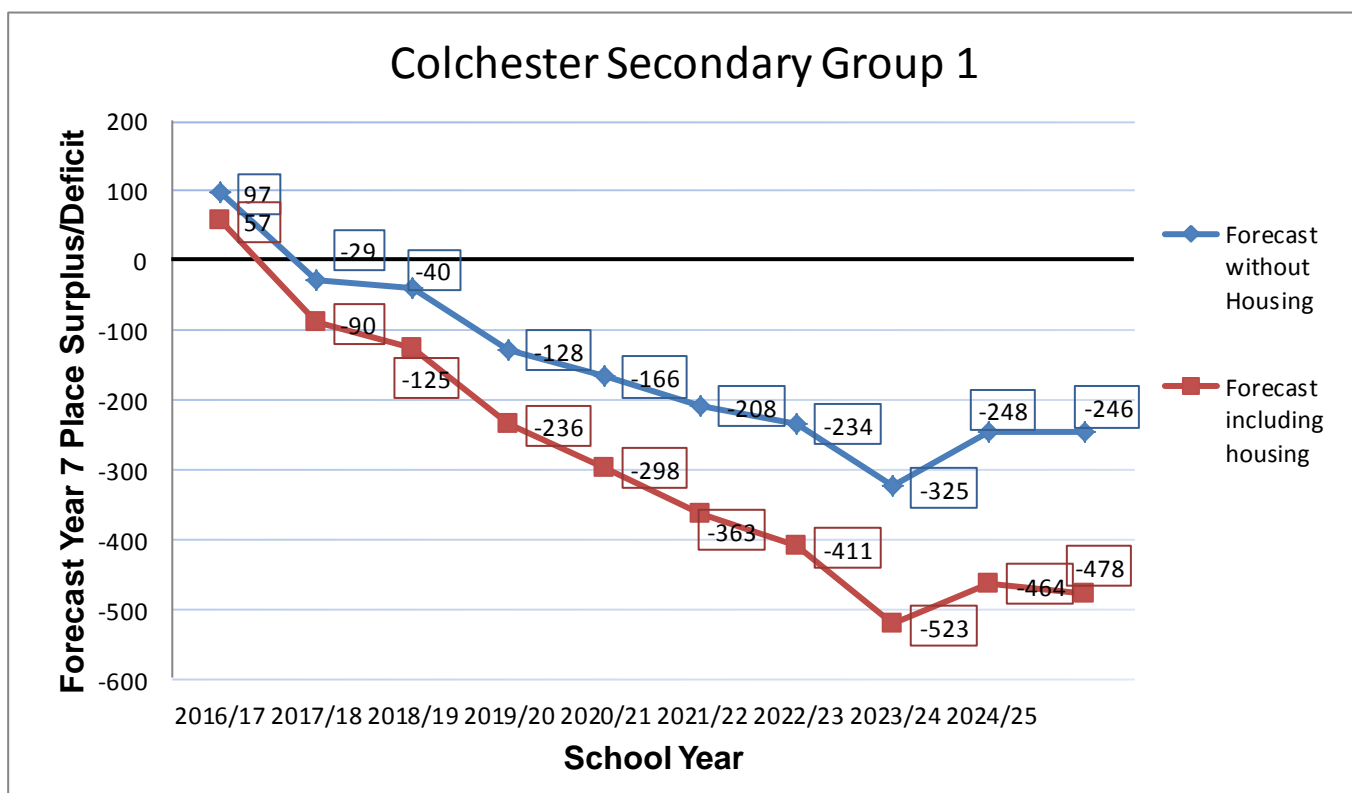
- 2.4. Authorise the Head of Infrastructure Delivery to enter into funding agreements with each of the academy trusts to enlarge the schools' premises once he is satisfied that:

- (a) Full pre-planning consultation with key stakeholders is concluded prior to planning consent;
- (b) The construction costs proposed by the school's contractor are in overall compliance with ECC benchmarking rates and agreed budget caps.

### 3. Background and proposal

#### Demand for Places

- 3.1. Growth in pupil numbers in Colchester is predicted to require at least 12 additional Year 7 forms of entry for secondary education provision between 2017 and 2025. This is due to new housing and rising births, with larger cohorts moving through from the primary phase, as indicated in the table below.



- 3.2. This indicates that there is an immediate need for up to 4 Year 7 forms of entry in Colchester for September 2017. The long term strategic plan which had been agreed in 2012 had envisaged providing additional secondary

school places in a new school on the former Alderman Blaxill School (ABX) site, using the existing buildings. However, viability reports and condition surveys identified that the ABX buildings were in very poor condition, with buildings up to 60 years old and near the end of their building life, in extremely poor condition. The overall cost to remodel, refurbish and repair to the required standards for a new school is £16.4m.

- 3.3. It was considered that in view of the immediate need to provide additional forms of entry, there would be insufficient time and resource to bring the existing buildings up to standard so as to enable an intake in September 2017.

### **Potential Solutions**

- 3.4. Both PM and TSS have academy status and are both located in the vicinity of the ABX site. Both have unilaterally been considering expansions to their existing buildings and had commissioned viability studies on their existing accommodation. Both academies were keen to engage with officers to provide additional Year 7 places from September 2017.
- 3.5. In discussion with the academies a more cost effective and early solution for additional places was identified, by way of expanding both schools, each by two forms of entry. A form of entry at PM is 30 students, while TSS is 27 therefore providing an additional 60 Year 7 places at PM and 54 at TSS in 2017. Overall, 570 additional places will be created across these two academies over the next 5 years, with an annual intake of 114 additional spaces.
- 3.6. The total estimated capital cost for the projects at the academies is £12.9m. This solution provides demonstrable benefits, including:
  - 3.6.1. the ability to meet demand for the next 2 years;
  - 3.6.2. high quality education solution for students;
  - 3.6.3. expanding two popular and successful academies (both were rated “good” at their last Ofsted inspections);
  - 3.6.4. provision of new buildings which comply with Building Regulations and ECC / Education Funding Agency area and quality standards; and
  - 3.6.5. lower building life cycle and energy costs.
- 3.7. Both academy headteachers and governing bodies have confirmed their willingness to expand and have committed to accommodate the extra students from September 2017, once the relevant building works have been completed.

### **Longer Term Demand for Places**

- 3.8. The proposed expansions at PM and TSS would provide sufficient additional Year 7 places for 2017 and 2018. The additional forms of entry required for secondary provision in Colchester from 2019 onwards for Year 7 places will need to be provided by engagement with potential providers of free schools and by parallel commissioning of new schools if required. As a result the ABX

site is still being actively considered for a secondary school provision as part of this strategy.

- 3.9. A public engagement session with local residents and other stake holders concerning the ABX site took place on 17 March 2016. Positive feedback was received particularly in terms of using the site for educational purposes in the future and for maintaining a level of community use on the site.
- 3.10. Viability studies have been commissioned to look at the educational capacity of the site which should be completed by the end of June 2016. It is intended to hold another engagement session in mid-July to update the community on developments.

### **Project Arrangements**

- 3.11. Both academies will directly procure and manage the building projects, in accordance with ECC design standards, using ECC funding. Both academies have previously directly managed large capital projects and have submitted a paper demonstrating their experience and capability to ECC for evaluation and approval.
- 3.12. Each academy will sign a funding agreement with ECC, setting out the total capital project budget, terms and conditions and risk ownership. Each funding agreement will require both academies to accept the full cost risk if the scheme cost escalates and any overspend.
- 3.13. To ensure due diligence, throughout the project lifecycle, the project will be monitored by the Infrastructure Delivery team. The academies will also need to adhere to financial regulations approved by governors and guidance provided by the EFA Academy Financial Handbook.
- 3.14. Pre-planning application consultations have been carried out by TSS in March 2016 and will be carried out by PM in early May 2016.

### **DfE Process for Expansion**

- 3.15. In line with DfE's guidance "Making Significant Changes to an Open Academy" TSS and PM will need to seek approval for their expansions. The guidance is clear that it is expected that Regional Schools Commissioners (RSC) will approve the majority of fast track requests from academies currently rated as 'good' or 'outstanding' provided that the academy meets all the fast-track criteria (as below) and is prepared to demonstrate, with evidence if requested:
  - a fair and open consultation has taken place, including that any consultation relating to admission arrangements which are necessary has been undertaken, the number and percentage in favour of the change has been considered, and if there are any objections, how the issues raised will be (or have been) managed;
  - funding has been secured in relation to the proposed change for both capital costs, and that there are no issues with current budget and/or finances. In the case of expansions, academies have sufficient funding for additional pupils, until lagged funding is applied;

- the change is aligned with local pupil place plans and it is unlikely to have a negative impact on educational standards at the academy or at other local schools or colleges; and
- that appropriate planning permissions and other consents required have been secured.

3.16. Officers will support the academies with their applications to DfE/RSC.

#### **4. Policy Context and Outcomes Framework**

- 4.1 ECC has a statutory duty to secure sufficient school places within its area. The key role of the planning function is to maintain a balance between the supply and demand of school places with regard to future projections of pupil numbers, demographic trends and policy priorities. ECC is also under a duty to maximise parental preference where possible.
- 4.2 A stated priority of the Vision for Essex Corporate Plan 2013-2017 is “to increase educational achievement and enhance skills”. ECC is under a duty to promote high educational standards, ensure fair access to educational opportunity and promote the fulfilment of every child’s educational potential. It must also ensure that there are sufficient schools in the county to promote diversity and increase parental choice.
- 4.3 The Corporate Outcomes Framework 2014-2018 has as a “Whole Essex” outcome: “people have aspiration and achieve their ambitions through education, training and lifelong learning” with a particular indicator “percentage of children attending a good school”. Both schools were rated as good at their last Ofsted inspections and supporting governors’ vision of expanding the academies should therefore help to promote a good supply of strong schools.

#### **5. Financial Implications**

- 5.1. The combined Total Estimated Capital Cost (TECC) to achieve four forms of entry (4fe) expansion is £12.9m including appropriate contingency and will be funded from within the existing Education Capital Programme.
- 5.2. ECC initially prepared viability options taking into consideration not only the additional accommodation required according to Building Bulletin 103 guidance, but also the way the academies operate and deliver their curriculum to ensure that education and learning provision was not compromised. The estimated overall cost for the ECC option was £13.3m.
- 5.3. ECC subsequently agreed a more cost effective solution with both academies at a total cost of £12.9m and within ECC benchmarks. This demonstrates that the proposed solution delivers value for money. The schemes will be monitored by ECC to ensure that they fully meet ECC standards of design and build quality.

- 5.4. Part of the £12.9m will be sourced from the revenue Dedicated Schools Grant (DSG) for loose furniture and equipment in the additional teaching and learning spaces provided as part of the expansion. This is estimated to be £120,000.
- 5.5. Holding costs on the former ABX site will be extended as a consequence of this proposal. Existing costs are c £250,000 pa. However ECC property services will review the land and buildings on the site in light of this decision to maximise future value for money. In the future, given expected Colchester demand profiles, this site may be attractive for example as a future Free School.
- 5.6. The table below details the funding sources and expenditure profile of the scheme:

	£000	£000	£000	£000	£000
	Total	2015/16	2016/17	2017/18	2018/19
The Stanway School Capital Costs	7,079	25	2,112	4,770	172
Phillip M Capital Costs	5,678	50	2,026	3,505	97
<b>Total Capital Costs (Capital Programme)</b>	<b>12,757</b>	<b>75</b>	<b>4,138</b>	<b>8,275</b>	<b>269</b>
Grants	12,757	75	4,138	8,275	269
<b>Identified External Capital Funding</b>	<b>12,757</b>	<b>75</b>	<b>4,138</b>	<b>8,275</b>	<b>269</b>
<b>Gap - ECC funding required</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Revenue Costs</b>					
Furniture & equipment	120			120	
<b>Total Revenue Costs</b>	<b>120</b>	<b>-</b>	<b>-</b>	<b>120</b>	<b>-</b>
<b>Total Project Costs</b>	<b>12,877</b>	<b>75</b>	<b>4,138</b>	<b>8,395</b>	<b>269</b>

## 6. Legal Implications

- 6.1. As PM and TSS are academies they may expand in accordance with the terms of their funding agreements with the Secretary of State. ECC's consent is not required. However ECC is able to fund expansion of academies as this is authorised by the Academies Act 2010.
- 6.2. ECC has a statutory duty to commission a sufficient supply of school places. The expansion of PM and TSS was brokered by ECC in accordance with this duty.
- 6.3. ECC is responsible for funding the 'basic need' provision of additional school places in Essex at all schools, including academies.
- 6.4. ECC has a duty to take such steps as reasonable to avoid substantial disadvantage to a disabled person. The duty to make reasonable adjustment is triggered when there is a substantial disadvantage. The duty requires the schools to take positive steps to ensure that disabled pupils can fully participate in the education provided by the school. The duty is an anticipatory one, owed to pupils in general. Thought should be given in

advance of what disabled pupils may require and what adjustments may need to be made for them.

- 6.5. Schools cannot delegate these duties, so must specify the relevant matters in the procurement contract.
- 6.6. Both PM and TSS will be required to undertake a full procurement exercise to identify a contractor for the requisite works to be completed. Due to the value of the works this will have to be done through a competitive process, and must be done in accordance with the Public Contracts Regulations 2015 as they are deemed to be “Contracting Authorities” for these purposes. The schools must also comply with their own Financial Regulations governing contract compliance.
- 6.7. The funding agreement with each academy will set out that the payments are subject to the receipt of the approval from the Secretary of State for the proposed expansions, and on approval of their planning applications, and will also ensure that all overspend will be the responsibility of each academy.

## **7. Staffing and other resource implications**

- 7.1. As the schools grow in size they will need to recruit additional employees to meet the needs of the increasing number of pupils. The size of the schools will increase incrementally over a five year period. The schools will therefore plan for a phased increase in size and staffing structure.

## **8. Equality and Diversity implications**

- 8.1. In making this decision ECC must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act 2010, i.e. have due regard to the need to:
  - A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - B. Advance equality of opportunity between people who share a protected characteristic and those who do not;
  - C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 8.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 8.3. The PSED is a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149, is only one factor that needs to be considered, and may be balanced against other relevant factors.
- 8.4. An Equality Impact Analysis has been conducted and found no impact on any equality group.

## **9. List of Appendices**

(available at [www.essex.gov.uk](http://www.essex.gov.uk) if not circulated with this report)

### **9.1 EqlA assessment**

## **10. List of Background Papers**

**(Any request for any background papers listed here should be made to the person named at the front of the report who will be able to help with any enquiries)**