

**Forward Plan reference number: FP/557/10/19**

<b>Report title: Proposed expansion of Clacton County High School from 1350 places to 1800 places</b>	
<b>Report to:</b> Cabinet	
<b>Report author:</b> Cllr Ray Gooding, Cabinet Member for Education and Skills	
<b>Date:</b> 21 January 2020	<b>For:</b> Decision
<b>Enquiries to:</b> Clare Kershaw, Director for Education	
<b>County Divisions affected:</b> All Tendring Divisions	

**Confidential Appendix**

This report has a confidential appendix which is not for publication as it includes exempt information falling within paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended.

**1. Purpose of Report**

- 1.1 To endorse the expansion of Clacton County High School (CCHS) by increasing capacity from 9 Forms of Entry (FE) to 12 FE provision (1350 places to 1800 places) in order to meet the need for secondary school places in the locality.

**2. Recommendations**

- 2.1. To authorise the Director, Education, in consultation with the Cabinet Member for Finance, Property and Housing and the Cabinet Member for Education and Skills to vary the Project Agreement, Facilities Maintenance (FM) Contract and associated PFI documentation to accommodate the expansion of Clacton County High School.
- 2.2. To agree to the delivery of the reconfiguration work at CCHS and Tendring Education Centre (TEC) by the Private Finance Initiative (PFI) provider, QED Clacton.
- 2.3. To agree the transfer of recreation land neighbouring CCHS shown hatched red on the plan attached to this report titled plan 1, which currently forms part of the Clacton Leisure Centre site, from Tendring District Council (TDC) to ECC, and to endorse the transfer of an equivalent area of ECC land at TEC shown hatched red on the plan attached to this report titled plan 2, to TDC.
- 2.4. To agree to enter into a Funding Agreement with TDC in respect of payment of £1.11m to represent a balancing payment for the land and to fund improvements to the surroundings and facilities of the Clacton Leisure Centre site for the benefit of the school (as expanded) and the local community for a term of forty years.

- 2.5. To agree to direct award a contract to Pick Everard under the terms of Essex Professional Services Framework for professional design, planning, and survey services and all the pre-construction work necessary to establish a final design and cost for the new build infrastructure at CCHS (10 classrooms and a sports hall).
- 2.6. Following completion of activity described in 2.5, to agree to undertake an OJEU compliant procurement process to appoint a design and build contractor to construct the new build infrastructure at CCHS (10 classrooms and a sports hall).
- 2.7 Subject to the grant of satisfactory planning permission for the construction of the new Sports hall and classrooms and completion of the deed of variation to the PFI contract to agree to delegate to the Cabinet Member for Finance, Property and Housing and the Cabinet Member for Education and Skills that to:
  - a. Agree the procurement route for the design and build contractor;
  - b. Agree the winning bidder;
  - c. Award the construction contract to the successful bidder.
- 2.8 Approve the capital budget for construction and associated project fees, as per the profile stated in the confidential financial appendix.

### 3. Summary of issue

- 3.1. Essex County Council (ECC) has a duty to ensure that there are sufficient school places for children living in the county. Latest forecasts, which will be shown in the “10 Year Plan – meeting the demand for school places in Essex 2020 – 2029” there is a permanent deficit of secondary school places forecast in the Clacton area of up to 5 forms of entry (5FE). This is due to significant inward migration to the area, as well as significant levels of new housing planned in the longer term. Forecasts are shown below:

#### Year 7 Place Forecast

Year	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30
+/-	-54	-95	-146	-169	-75	-155	-106	-92	-156	-139
Clacton Coastal Academy, Clacton County High School, Tendring Technology College										

- 3.2. There are three secondary schools in the Clacton area school places planning group, Clacton County High School (CCHS), Clacton Coastal Academy (CCA) and Tendring Technology College all of which could be expanded to meet the need for additional places.
- 3.3. Viability studies were carried out at the three schools to assess the practicality of expanding them and to give an indication of potential costs. The studies showed that it is possible to expand each of the schools; CCHS can be expanded by 3 form entry (FE) whilst CCA, and TTC can each be expanded by 2FE.

- 3.4. CCHS and CCA are both in Clacton. TTC is located on sites in Thorpe-le-Soken and Frinton and serves these towns as well as more rural parts of the planning group.
- 3.5. The pupil number forecasts are predicated on substantial amounts of additional housing being built in the planning group over the next 10 years. On average around 330 new dwellings may be built each year. The majority of these will be in the urban area, although a large number will also be in the area served by TTC. It is expected that in the medium-term new housing will progress more quickly in the urban area. For pupil place planning purposes, it has been assumed that the urban schools would expand to cater for additional pupils in the urban area, whilst TTC would expand to cater for additional pupils in the more rural area.
- 3.6. Given the location of the schools in the planning group and the expected demand from new housing it is considered that a two-stage approach to meeting the demand is needed, with an initial urban expansion followed by an expansion of TTC to cater for the increased demand in the rural areas.
- 3.7. Two main factors were considered in deciding on the appropriate location for additional places in the urban area, namely the relative Ofsted assessment and the relative popularity of the two schools. Historically CCHS has been the more successful and popular of the Clacton schools.
- 3.8. On this basis it is proposed to expand CCHS as this school is oversubscribed and expansion would therefore increase the number of parents gaining a school place of their preference for their children and should increase the number of children receiving a high-quality education with the additional 2FE required being accommodated later at TTC.
- 3.9. CCHS is rated “good” by Ofsted and is a popular school, being consistently oversubscribed with first preference applications for Year 7 places. Expansion will increase the number of parents gaining a school place of their preference for their children and will increase the number of children receiving a high-quality education.
- 3.10. CCHS is an academy, and as such the school does not require ECC’s approval to expand. ECC is not required to fund the expansion but ECC has a statutory duty to ensure that sufficient school places are available, so this report requests Cabinet’s approval to support and fund the expansion. ECC has brokered the agreed approach to increasing school places and support of the school’s proposal to expand is intended to ensure that local children have the opportunity to access a good local school.
- 3.11. CCHS is presently on a small site in Walton Road, Clacton, which would be impossible to expand without additional site area. Site area can be increased in two ways:
  - Acquiring additional playing field space for the school from the adjoining TDC owned Clacton Leisure Centre recreation ground;

- Relocating the school's sixth form students to unoccupied accommodation at the present TEC site in Jaywick Lane, Clacton.

3.12. Taken together these two measures will create sufficient space on the present CCHS Walton Road site to accommodate an increase of 90 additional Yr. 7 students each year. Neither measure on its own would be sufficient to provide the required space.

3.13. It is proposed that the work required for the expansion will take place in two phases, phase 1 being completed by September 2020 and phase 2 by September 2021. Phase 1 of the project is the relocation of the school's sixth form to the TEC site. This will free up capacity on the Walton Road site for an increased Year 7 intake in 2020. Phase 2 of the project is the construction of additional accommodation on the Walton Road site which will provide the necessary capacity as the total number 11-16 students on the site increases to 1800.

3.14. CCHS's sixth form will relocate to the TEC site at its existing size. The expansion proposal will not directly affect sixth form numbers. The relocation of the sixth form is however a necessary condition for the expansion of 11-16 capacity to take place.

3.15. Tendring District Council support this approach. Following a consultation process TDC members resolved on 11 October 2019 to transfer the Leisure Centre land to ECC, subject to the transfer of an equivalent area of ECC land at TEC to TDC.

#### Required Infrastructure

3.16. The expansion will require delivery of infrastructure at the TEC site, with the adjacent Rush Green Recreational Area, and at the CCHS site, with the adjacent Clacton Leisure Centre. This will be in two phases.

#### **The Expansion**

3.17. In phase 1, land owned by TDC will be transferred to ECC for CCHS education use. This transaction is balanced by the transfer of a similar sized piece of land at TEC, from ECC to TDC, for additional public recreation area on the Rush Green site. Both TDC and ECC intend to undertake a programme of improvement works across the sites to compensate for the loss of amenity on the leisure centre site.

3.18. TDC is committed to improving the leisure centre and on the Rush Green recreational area with a planned spend totalling circa £2.6m (subject to a separate business case for expanded buildings being developed), of which ECC is funding £1.11m. The payment will be a balancing payment for the land transactions between ECC and TDC and will also be used by TDC for improvements and infrastructure at the leisure centre. A funding agreement will be entered with TDC in respect of the contribution from ECC.

- 3.19. The improvements at the leisure centre will mean that CCHS will benefit from exclusive use of a new 3G competition standard all-weather football pitch in school hours and increased playing field area which mitigates the small area of outside space currently usable. There is an equal benefit for the community in respect of the all-weather pitch, car park upgrade, and access to the leisure centre. There will only be limited loss of use of the grass pitch on the area of land to be transferred to ECC as it will still be let by the leisure centre out of school hours.
- 3.20. ECC has facilitated a joint user agreement between CCHS/Sigma and TDC which will also mean that CCHS will benefit from a safe pick up and drop off point for parents, visitors, and coaches, away from the main road. At present the primary access to CCHS is from Walton Road through a restrictive school entrance way situated between houses, which funnels all school users to one access point on the public footpath at the front of the school. Walton Road is a busy residential road and is also a thoroughfare for the leisure centre and TDC depot. As a consequence, there is tension between public road and path users, local residents, and school users at opening and closing times. This has led to informal use of the leisure centre carpark at the rear of the school to alleviate parking and congestion.
- 3.21. The proposed changes will reconfigure the school to create the primary access at the rear of the site. The leisure centre car park will be improved to facilitate this change and will formalise the use and maintenance of facilities for the school, providing a safe environment for school and leisure centre users. Pathways across the leisure centre site will be improved and increased which will encourage pedestrian use by enabling access to the school catchment area from all directions. Dedicated bus pick-up and drop-off laybys will be provided to enable connectivity between CCHS and TEC, and pick-up and drop-off from current school bus services.
- 3.22. Relocating the sixth form to TEC will mean that the 17+ age school pupils with their own vehicles will no longer contribute to congestion and parking in Walton Road and surrounding streets, and additional parking facilities will be provided at TEC to cater for this. On-site visitor parking at CCHS will be turned over to staff parking and therefore no new spaces are required for the expansion, whilst school visitors will be encouraged to use the leisure centre car park, which Tendring DC have committed to make available to for school use for a forty year period.
- 3.23. ECC will undertake remodelling in some areas of the accommodation at both CCHS and TEC with a planned spend totalling circa £2.2m, the objective being to provide a 6<sup>th</sup> Form Centre at TEC for all of the CCHS post 16 pupils, and accommodation for 150 of the 450 additional secondary school age pupils planned at CCHS. The accommodation for Post-16 SEND pupils at TEC will also be improved to provide additional capacity. This remodelling work will be

undertaken by the Private Finance Initiative (PFI) provider by way of variation to the PFI documentation.

- 3.24. The intention is to complete this school accommodation and supporting infrastructure by September 2020.
- 3.25. In phase 2, it is intended that ECC will procure the construction of ten new classrooms and a sports hall in a standalone building at CCHS. This accommodation will provide 300 of the 450 additional secondary school places planned for CCHS and should be complete by September 2021. A Variation to the PFI arrangement will be required to accommodate this.
- 3.26. Both CCHS and TEC sites are subject to a PFI contract. The works at the sites and changes to the boundaries proposed will require a Deed of Variation to the Project Agreement. This variation will involve negotiation and agreement with the PFI contractor, facilities maintenance contractor and the banks involved in financing the project and will require scrutiny of their technical advisors. The cost of this will have to be met by ECC and is set out in the confidential appendix.
- 3.27. The expansion will help to deliver the following Strategic Priorities in the Council's Organisation Strategy:
- Help people in Essex prosper by increasing their skills;
  - Develop the capability, performance and engagement of our people.
- 3.28. The TEC site at Jaywick Lane has been under-utilised for a number of years. Market Field Special School has recently been using part of the building to house its post-16 provision. Moving the CCHS sixth form provision to the site in addition will provide a sustainable long term use for the whole TEC site. Although the sixth form will relocate at its existing size the TEC site will be remodelled to provide a more tailored sixth form experience for students and an improved learning environment.
- 3.29. Clacton is a key area of focus for ECC's localities approach. This seeks to maximise the opportunities in each area as well as overcoming some of the challenges by making targeted investments to transform the outcomes for residents. The district suffers from poor educational attainment and progression which is directly constraining growth of the area, residential aspirations and perpetuating cycles of deprivation. Provision of high-quality educational facilities, such as the proposed expansion of CCHS and enhanced post-16 provision, provides the opportunity to overcome some of these challenges.
- 3.30. Transferring Clacton Leisure Centre land to ECC will provide a larger playing field for the school, which will be necessary for the increased number of 11-16 students who will be using the site. The reciprocal agreement between TDC and ECC will transfer an equivalent area of land; TEC land being transferred freehold to TDC has an education value of £516,000 and land at Vista Road Recreation Ground being transferred freehold from TDC to ECC has an education value of £678,000. ECC will also provide capital funding of £910,000 to TDC to improve facilities at Clacton Leisure Centre, including remodelling the car park to provide

safe access and drop-off facilities for CCHS students. ECC will also make a one-off payment of £100,000 to TDC, for TDC to invest or use as it sees fit at its sole discretion in consideration of allowing and maintaining the accesses and car parks. This approach has been taken because ECC does not have a legal interest in the land and buildings and as such is only facilitating agreement between the school and TDC in order to provide the additional pupil places at CCHS. It is proposed that the agreement will last for a minimum of forty years on terms which protect the availability of the site for pick up/drop off and ECC's investment should the school be run by a different organisation in future. The school and TDC have agreed that a minimum term of forty years is appropriate for this agreement and therefore once executed ECC can be sure the additional pupil places will be provided for the foreseeable future with the infrastructure secured and maintained to facilitate this need. TDC and the Students will also benefit from agreed use of the new all-weather-pitch at the leisure centre. The land transaction to allow CCHS to take occupation of the additional playing field space is yet to be determined but occupation by the academy trust has been agreed in principle.

3.31. CCHS carried out a consultation exercise about the proposed expansion of the school and the transfer of the post 16 provision to another site. The school wrote to all 1650 parents in July 2019 and again in September and October. The formal consultation took place between 18 September and 16 October 2019. The stakeholders invited to comment included all parents and students, senior Local Authority representatives, District Councillors and senior officers and all local schools. The formal consultation letter is included in the background papers, as are redacted copies of the responses received. The outcomes of the consultation were:

- Five responses were received, four from existing parents and one from another 11-18 provider in Clacton;
- All of the parental responses commented on the relocation of the CCHS sixth form provision to the TEC site. Concerns were raised about transport to the TEC site, as it is on opposite side of Clacton from the Walton Road site, and how students would be able to access the site. Parents were also concerned about disruption to students caused by the relocation and whether additional teachers and support staff would be employed at the TEC site. One parent also enquired whether catering facilities on the Walton Road site would be sufficient to cope with increased student numbers;
- CCHS is taking these issues seriously and is working on mitigating parents' concerns. CCHS is working with a local bus provider to create affordable solutions that work for all and to provide free transport where required from Walton Road for students in current year 11 and year 12, subject to review. Senior leaders have been modelling the requirements of the curriculum across the two sites for both teaching and support staff and will make additional appointments where necessary. As 11-16 student numbers rise on the Walton Road site additional staff will be required and this has been built into the on-going staffing structure;
- The response from the 11-18 provider expressed the wish to provide Year 11 students with a range of high quality sixth form options as pathways to future

careers, and to work collaboratively with CCHS to provide the best possible sixth form outcome for Clacton students;

- CCHS is committed to working collaboratively with all stakeholders and will proactively engage with other providers in the area.

3.32. On this basis The SIGMA Trust has agreed to move forward with the expansion process. If Cabinet agrees to support and fund the expansion the Trust will prepare a business case for submission to the Regional Schools Commissioner (RSC) asking for permission to expand the school.

#### **4. Options**

4.1. **Option 1** - Expand CCHS by 3FE on a two-phase basis from 2020 and TTC by 2FE in 2022.

4.2. Demand is expected to be for an additional 2FE of capacity in 2020 and 3FE in 2021. The proposed expansion approach will provide up to 2FE additional capacity in 2020 on the Walton Road site by relocating the sixth form and up to 3FE overall in 2021 with additional accommodation completed on the site by this point.

4.3. Forecast demand for Year 7 places peaks in 2022 and 2023 academic years. Expansion of TTC from 2022 will cater for this overall additional need. If these additional places are required a further report will be brought forward to confirm support for the expansion.

4.4. The forecasts are predicated on high levels of additional housing being completed in the Clacton area over the next few years. Given present economic uncertainty there is a level of risk in this assumption. Student numbers will be monitored carefully and if they continue to rise in line with present expectations the further 2FE expansion can be commissioned in 2020 giving time for the necessary construction work. If they do not a decision on further expansion can be delayed, thereby reducing the risk of creating surplus places.

4.5. This approach will require a complex suite of legal documentation to put into effect the transaction including changes to the PFI arrangements land transfers and funding.

4.6. This is the preferred option.

4.7. **Option 2** - Expand one of the schools by 2FE in 2020 and another by 2FE in 2021.

4.8. This approach would closely match the predicted need for additional places up to 2022. However, if student numbers do not reach expected levels this could mean that one of the schools would have to deal with a substantial level of surplus capacity, as relative popularity means that surplus places are rarely split evenly amongst schools. It is a lower risk to concentrate an additional 3FE places in one school and to monitor student numbers over time to assess the need for further places.



4.9. This is therefore not the preferred option.

4.10. **Option 3 - Do nothing**

4.11. The forecasts are clear that even if lower levels of new housing are built than are presently anticipated there will still be the need for some additional places over and above those that are available at present. If additional capacity is not provided there is a high risk that not all local children will have a place at a local school and that some may need to be transported large distances to other schools.

4.12. This is therefore not the preferred option.

## **5. Next steps**

5.1. A decision by Cabinet in line with the recommendations in section 2 of this report will allow arrangements to be made for phase 1 of the expansion process to be completed and will allow The SIGMA Trust to submit a business case for expansion to the RSC.

## **6. Issues for consideration**

### **6.1. Financial implications**

6.1.1. Please see the confidential appendix for details.

6.1.2. The total capital cost is included in the current and future years capital programme and the revenue implications are included in the MTRS. Contingency of 3.99% has been included to cover any risks identified.

### **6.2. Legal implications**

6.2.1. The Council is obliged to obtain best consideration reasonably obtainable on the disposal of its property unless the Secretary of State consents to the disposal or the disposal falls within the terms of the disposal consents issued under the Local Government Act 1972. The land ECC proposes to dispose is currently subject to a PFI contract and will need to be released from that contract. The rationale set out in the report and the figures in the confidential appendix demonstrate how the recommended proposal meets best value.

6.2.2. The disposal of the school playing field can take place under Paragraph 7 of the Section 77 Class Consent – Notification of class consent under The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014.

6.2.3. The Council is under obligations pursuant to the terms of a PFI contract for CCHS and TEC. The proposals will require a Deed of Variation to be entered to effect the arrangements and appoint the PFI FM contractor to undertake the remodelling works at CCHS and TEC. The terms of the deed are not yet finalised.

6.2.4. In relation to the building contracts, the Council is a Contracting Authority for the purposes of the Public Contracts Regulations and is obliged to carry out an OJEU compliant procurement process to appoint contractors to undertake Works and Services on its behalf. When calling off from the framework to appoint Pick Everard to undertake professional services, the Council will need to ensure that it follows the call off process in the Framework Agreement.

6.2.5. The Council must undertake an OJEU compliant procurement for to appoint the building contractor for the CCHS new build works.

## **7. Equality and Diversity implications**

7.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful;
- (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.

7.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

7.3 The Equality Impact Assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **8. List of appendices**

- 8.1. Clacton Leisure Centre Land – Plan 1
- 8.2. TEC Land – Plan 2
- 8.3. Equality Impact Assessment
- 8.4. Confidential appendix

## **9. List of Background papers**

- 9.1. 10 Year Plan – Meeting the demand for school places in Essex 2019 - 2028
- 9.2. DfE Guidance - "Making Significant Changes to an Open Academy and Closure by Mutual Consent" (Departmental advice for all types of academy trust, October 2018)
- 9.3. SIGMA Trust consultation letter
- 9.4. Redacted responses to SIGMA Trust consultation