

Forward Plan reference number: N/A

Report title: The Helena Romanes School, Great Dunmow – a new All-Through School including primary provision	
Report to : Helen Lincoln Executive Director for Children and Families, and Education	
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Date: 13 th March 2024	For: Decision
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County Divisions affected: Dunmow	

1. Everyone's Essex

The report explains the proposed service of a notice requiring land for the site of a new all-through school to be acquired by the Secretary of State for Levelling Up Housing and Communities ('SoS') to enable the erection of a new school building at a new site for Helena Romanes Primary School as an all-through school at Buttleys Lane, Great Dunmow as shown in Appendix 1 (the "Site"). The education use will ensure Essex County Council ('ECC') can deliver on the following key commitments set out in Everyone's Essex – Our plan for levelling up the county: 2021-2025:

- 1.1 This proposal would contribute to the strategic aims of creating a good place for children and families to grow, a high-quality environment and a strong, inclusive and sustainable economy through:
 - a) Supporting high quality education outcomes: High-quality new provision would ensure children are able to learn and teachers able to teach in the most conducive environment for success.
 - b) *Achieving net-zero:* A new school site will be to provided close to where additional demand is anticipated from new homes, thereby minimising the need to travel . Any new school would be built to the DfE's 2022 specification for aiming towards net zero.

2 Recommendations

2.1 To agree to serve the Notice on the Owner to transfer the Site to the SoS subject to entering into an agreement with ECC securing obligations as more particularly set out in section 3.14 of this Report.

2.2 To agree that ECC enter into an Agreement with SoS to serve the land transfer Notice and for SoS to take the transfer of the Site and pay the

purchase price payable and to indemnify ECC as detailed in section 3.14 of this Report.

3 Background and Proposal

- 3.1 ECC has a statutory duty under section 14 of the Education Act 1996 to ensure that there are sufficient school places for children living in the county. In order to do this ECC monitors birth rates, new housing developments and patterns of parental preference across groups of schools. This information is used to predict pupil numbers and to ensure there are sufficient places to meet demand in the area.
- 3.2 On 15th December 2020 Cabinet agreed for ECC to support the decision for the Helena Romanes School to change its age range to admit Primary age pupils and fund the Primary element of the all-through school (a school that provides both primary and secondary education). (FP/779/08/20) This is the Saffron Academy Trust (SAT) self-delivery proposal (which means the Trust is to manage and run the project). The decision agreed to permit the Trust to expand the Helena Romanes School, Great Dunmow to include 420 primary school places with effect from September 2021 and the relocation of the new primary provision to a new all-through school site in Stortford Road in September 2022. The new all-through school site is located at Buttleys Lane, off Stortford Rd, Gt Dunmow.
- 3.3 Subject to further governance, it is anticipated that a funding agreement will be entered into with the SoS for the construction and associated project fees for the primary element of the new all-through school as described in the FP/779/08/20. Approval of that funding agreement will be the subject of a separate decision.
- 3.4 This paper is seeking authority to serve the land transfer notice to the land owner, Siemens Benefits Scheme Ltd (the Owner), and to nominate the SoS to take the freehold interest.
- 3.5 A S106 legal agreement is in place and details the location of the land and the process for the land transfer. The Section 106 agreement is dated 24th December 2021 and made between (1) Uttlesford District Council and (2) Essex County Council and (3) Patricia Mary Hilborne and Michael Robert Chapman and (4) Siemens Benefits Scheme Limited made under the Planning Act 1990 (S106) (UTT/18/2574)
- 3.6 The “Site” is the land south of Stortford Road, Great Dunmow and at Ongar Road, Great Dunmow. This is also referred to as “Education Site One”. This is where the all-through school is proposed to be built as shown in Appendix 1

- 3.7 Under the S106 it requires ECC to issue a site notice (“The Notice”) to the Owner for the land to be transferred. Within the S106 ECC can request that the land transfers to a nominee. ECC will request the land is transferred to the Secretary of State (SoS) enabling the DfE (part of the SoS) to build the all-through school. Once the Notice to transfer to the nominee happens, ECC will no longer be entitled the amount of £919,400 from the S106 (the Education Contribution).
- 3.8 ECC require the SoS to enter into an agreement with ECC to indemnify ECC as detailed in section 3.14 of this Report
- 3.9 In July 2022 the Department for Education (DfE, a department of the SoS) announced that the Helena Romanes school rebuild would be part of their Schools priority programme. The DfE are working with SAT and are leading on the project.
- 3.10 The DfE propose to create an educational provision that will consist of three elements – primary, secondary and sixth form, and will operate as an “all-through school,” where a single school provides multiple phases of a child’s education. The benefits of all-through provision is that standards of learning are more likely to be consistent with children staying in the same Trust. Transition between primary and secondary school is easier as children remain at the same school and are already familiar with surroundings and what happens at Year 7. Benefits to the Trust are there are shared resources, staff and facilities across all three educational phases. With the DfE building the all-through school ECC see the advantages of the Primary school being located here.
- 3.11 The DfE are currently in the design stage process for the all-through school and plan to open the Primary School element in September 2025 with the secondary school to follow on completion in October 2026.
- 3.12 SAT gained planning permission for the all-through school on 20th April 2021. The planning permission requires the DfE to start construction before 20th April 2024.
- 3.13 The DfE has requested that ECC serve Notice on the Owner and nominate SoS to take ownership of the Site as permitted under the S106 and thereby enabling them to meet their programme. The DfE are managing the project and therefore the build project risks fall to them. If, following completion of the acquisition of the Site, SoS decide not to proceed with the development then they are obliged to refund the education contribution that would have been payable if the land transfer notice hadn’t been served. SoS are also responsible for repaying the education contribution in the event that they haven’t started works by 1st September 2029 if they have started but not diligently proceeded or if the school hasn’t been completed and available for occupation and use as a school by 1st September 2031.
- 3.14 Prior to serving Notice on the Owner for the Site transfer, ECC will enter into an agreement SoS. The agreement will include:

- a) That ECC will nominate the SoS to take ownership of the Site. This will trigger the creation of a contract between ECC and SoS to transfer of the Site under the S106 and will also trigger a reduction in the Education Contribution to be made under the S106 in the amount of £919,400.
 - b) That the SoS will complete the Site transfer
 - c) This agreement will provide ECC with the indemnity for the reduction of the s106 Education Contribution as described in 3.14 a) above. The agreement will also provide ECC with commitment from the SoS that they accept the nomination under the S106 and agree to fulfil ECC's obligations under the S106 (with regard to the Site) before the Site notice is issued. There are some cross obligations on the part of ECC to comply with the obligations and deal with the Owner in the event that the Owner doesn't want to deal direct with SoS.
 - d) A SoS indemnification of financial loss to ECC in the event that SoS does not uphold the ECC obligations in relation to the transfer of the land under the S106 (with regard to the Site – these obligations relate purely to the repayment of the Education Contribution and the purchase price payable to the Owner).
- 3.15 Once the education site notice has been served on the Owner, Siemens Benefits Scheme Limited, the future S106 payments ECC were to receive will be removed to cover the cost of the land as detailed in section 6.5 of this paper. Once the site notice is issued the deduction in the S106 payment is automatic and no further decision or notice is required.

4 Links to our Strategic Ambitions

4.1 This report links to the following aims in the Essex Vision

- Provide an equal foundation for every child
- Develop our County sustainably
- Share prosperity with everyone

4.2 Approving the recommendations in this report will have the following impact on the Council's ambition to be net carbon neutral by 2030:

The all through School campus will benefit from a building that will include zero carbon enhancements under the DfE specification, which will contribute to ECC's aspiration to reduce its carbon footprint, working towards its net zero targets.

4.3 This report links to the following strategic priorities in the emerging Organisational Strategy 'Everyone's Essex':

- A strong, inclusive and sustainable economy
- A high quality environment
- Health wellbeing and independence for all ages
- A good place for children and families to grow

5 Options

5.1 Option 1: Do Nothing (not recommended)

The current Primary pupils at the Helena Romanes School (HRS) are currently in temporary accommodation, in agreement with ECC; the school needs additional accommodation from September 2025. Not providing the land will prevent the delivery of an all-through school on the Site as there is no alternative land. The school could be re-built on the existing school site however there is little room for temporary accommodation whilst the new build is constructed and is not deemed to be value for money.

The option to do nothing is not recommended as there is a need to increase pupil places in the Great Dunmow area; the proposed new provision as part of a relocated Helena Romanes School is a desirable solution to meet the continued increase.

5.2 Option 2: To serve the Notice for the Site to the Owner and to nominate SoS to take the interest in land. To enter into an agreement with SoS to ensure that ECC liabilities and options for the future ownership of the land are covered. (recommended)

5.2.1 This will allow for the project to continue and provide additional primary places in the area. This recommended option is linked to the relocation of the existing HRS School to the new site of the all-through school , as one project.

5.2.2 Beyond school place expansion, other benefits of supporting this proposal and enabling the relocation and expansion of HRS delivery of an all-through school, include:

- Additional jobs and economic benefit associated with the construction of new school buildings and to meet the needs of new housing
- Delivery of a 21st century school building for primary and secondary. The current building is in need of significant repair.
- If successful the approval of this will be for the third all-through school in Essex.

6 Issues for consideration

6.1 Financial implications

6.2 The section 106 agreement in relation to the Land South of Stortford Road, Dunmow and At Ongar Road Dunmow, provides an option to transfer two parcels (or parts thereof) of education land. The 'Education Site One' includes a small

strip of land to deliver a footway to the school and connecting it safely and directly with the adjacent residential development.

- 6.3 This paper seeks approval to serve the land notice for Education Site 1 and reduce future owner/developer payments in the S106 agreement in part payment for the land.
- 6.4 SoS will be nominated to take the interest in the land and will be responsible for the upfront payment for the land. ECC will not be purchasing the site and therefore there is no cost to ECC.
- 6.5 The consideration for the 'Education Site One' is valued at £1,763,800 this is made up of a reduction of future S106 payments to ECC of £919,400 and a remaining cost of £844,400 being the purchase price payable for the Site. SoS will be responsible for making the payment of the up-front cost of the land to the landowner.
- 6.6 The reduction in S106 due from the developer will not have any detrimental effect for ECC. The construction of the school is being delivered by DfE and any S106 held for the school will be transferred to the DfE to fund the project. Therefore, the reduction in S106 will result in a reduction in the funds transferred to the DfE.

Table 1 – Details of Land Consideration

Land	Area (Hectares)	Reduced S106 Receipt (£)	SoS Cost (£)	Cost
Education Site 1 (excluding Footpath strip)	9.18	918,000	918,000	1,836,000
Footpath Strip	0.014	1,400	1,400	2,800
Fence Deduction	-	-	(75,000)	(75,000)
Total	9.194	919,400	844,400	1,763,800

Revenue

- 6.7 It is not considered that this scheme will increase home to school transport costs as it replaces existing accommodation which fulfils the need for school places in the local area.

6.8 Legal implications

6.8.1 ECC has a statutory duty to commission enough supply of school places. ECC is responsible for funding the 'basic need' provision of additional school places in Essex at all schools, including academies. Serving the notice described will facilitate SoS build proposals for the new educational provision.

6.8.2 The agreement with SoS will not relieve ECC of its obligations under the S106 option provisions. It will place obligations on the SoS not to place ECC in breach by any action or inaction of SoS. If SoS were to fail in these obligations and put ECC into breach, then ECC would have to claim those damages from

SoS and, potentially, undertake legal proceedings to collect. While the agreement will seek to protect ECC's position, full recovery of any losses cannot be guaranteed.

6.8.3 If a notice is served and SoS fail to take a transfer then ECC could be left in the position where ECC is legally bound to complete the acquisition of the Site.

6.8.3 The proposed transfer is a part of wider negotiations with the DfE. While the DfE has indicated its commitment to progress with the all-through school regardless of any future ECC funding that may be committed, there are no binding agreements in place. There is a risk that issuing the notice for SoS to take the land may mean that ECC does not have as strong a position in future negotiations. However, this must be balanced against the risk of the expiry of the planning permission against the plans for the all-through school as a whole. The deed of indemnity is a measure to protect ECC from identified losses of Education Contributions in the event that the DfE proposal does not proceed.

7 Equality and Diversity Considerations

- 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, sex, 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 Equalities Comprehensive 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

Appendix 1: S106 plan for Education Site One

Appendix 2: Equalities Comprehensive Impact Assessment

9 List of Background papers

FP/779/08/20 Helena Romanes School: new primary school in Gt Dunmow.

I approve the above recommendations set out above for the reasons set out in the report.	Date
Helen Lincoln Executive Director for Children and Families, and Education	20/3/24

In consultation with:

Role	Date
Executive Director, Corporate Services (S151 Officer)	20/3/24
Stephanie Mitchener on behalf of Nicole Wood	
Councillor Tony Ball,	20/3/24
Cabinet Member for Education and Skills	