

Forward Plan reference number: Not applicable

Report title: Land acquisition for potential new primary school at Radwinter Road, Saffron Walden	
Report to: Councillor Christopher Whitbread, The Chancellor of Essex (Cabinet Member with responsibility for Finance)	
Report authors: Monica Bird: School Organisation Officer (West Essex) Blaise Gammie: School Place Planning Manager	
Date: 19 December 2023	For: Decision
Enquiries to: Monica Bird: monica.bird@essex.gov.uk Blaise Gammie: blaise.gammie@essex.gov.uk	
County Divisions affected: Saffron Walden	

1. Everyone's Essex

- 1.1 Purchasing land at Radwinter Road, Saffron Walden for potential education use will ensure Essex County Council can deliver on the following key commitments set out in Everyone's Essex:

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.

Achieving net-zero: Owning the land would ensure that new school places can be provided close to where additional demand is anticipated from new homes, thereby minimising the need to travel. Any new school would be subject to ECC's commitment to deliver net zero new school buildings.

- 1.2 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.

2 Recommendation

- 2.1 Agree to purchase 1.2ha of land at Radwinter Road, Saffron Walden as indicated on the plan at Appendix A in accordance with the terms set out in a section 106 agreement dated 21 May 2015 relating to planning permission UTT/13/3467.

3 Background and Proposal

- 3.1 On the 26 May 2015, planning application UTT/13/3467 was granted by Uttlesford District Council permitting development at Radwinter Road in Saffron Walden (the Development Site) for up to 230 new homes. Pursuant to this permission, the land owners entered into a section 106 agreement dated the 21 May 2015 (the S106 Agreement) which provides for financial contributions from the Developer and grants the Council the option to purchase up to 1.2 hectares of land at the Development Site as indicated on the plan provided at Appendix A (the Education Land).
- 3.2 The S106 Agreement granted a seven-year option period during which ECC can serve notice agreeing to purchase the Education Land. This period ends on the 12 February 2024. Should ECC not serve notice before the 12th February 2024, ECC will lose the option to purchase the land.
- 3.3 Under the terms of the S106 Agreement, the Education Land must be used for '*indoor and outdoor facilities for education childcare sports and ancillary uses*' and in the event that this is not the case, on the tenth anniversary of its transfer to ECC, the owners may serve notice requiring its return on the same terms as it was transferred to ECC.
- 3.4 In accordance with ECC's Developers' Guide to Infrastructure Contributions, a development of 230 homes (based on the assumption that all units would be 2 or 2+ bed houses), can be expected to generate a need for up to 69 additional primary school places and 21 Early Years and Childcare (EY&C) places. It should be noted that if the final unit mix includes one bedroom flats or houses, the number of estimated pupils generated would reduce and the contributions would be reassessed accordingly. A total area of 1.2ha has been made available to ECC for use as Education Land. The s106 Agreement (dated 21 May 2015) provides for ECC, as Education Authority, to draw down more than 0.4ha of land and for every additional 0.1ha of land taken up (up to 1.2ha) an additional £10,000 per hectare will be payable. The Education Site will be transferred to ECC under the Education Site Transfer Terms in exchange for a consideration of £1. Therefore, on transfer, the sum payable will be £80,001. The sum payable for the Education Land can be funded from received contributions for this development (UTT/13/3467) as set out in the s106 Agreement. The s106 agreement complies with Regulation 122 of the Community Infrastructure Levy Regulations 2010.
- 3.5 Based on DfE advice, ECC seeks to build a two-form entry new primary school. The area recommended for a school of that size is 2.1ha. Although the Education Land is only 1.2ha, an adjacent development (permitted under UTT/17/2832) provides ECC with a potential option over a further 0.9ha. This option opens on occupation of the 20th home on that development and closes seven years after it is completed. The first homes are now on sale, and the risk of the option not being triggered is thereby considered low.
- 3.6 Forecasts set out in ECC's Education 10 Year Plan suggests there will only be 4 unfilled Reception places by the 2032/33 academic year in Saffron Walden (Uttlesford primary planning group 2). A figure of 5% unfilled capacity is

considered prudent and this would equate to 10.5 places per year group in this area.

- 3.7 Whilst these figures may not represent an overwhelming case for a new school, Uttlesford District Council do not have an up-to-date Local Plan. Pupil number forecasts therefore are unable to fully reflect levels of potential future housing growth in Saffron Walden. However, a scenario provided by Uttlesford District Council which ECC officers have tested, suggests in the region of three additional forms of entry of primary school capacity may be required longer term.
- 3.8 Based on desk-top analysis comparing the site areas used by the existing schools in Saffron Walden (Uttlesford Primary Group 2), against the minimum site areas recommended by the DfE in Building Bulletin 103, only Katherine Semar Infant and Junior Schools have sufficient space to expand without the use of artificial pitches. Therefore, to meet more than one form of entry of additional demand through school expansion, options outside of the town would have to be considered. This could result in a need to provide school transport for some pupils.
- 3.9 Taking ownership of the Education Land does not commit ECC to a new school and the s106 agreement requires the owners of the Development Site to maintain the Education Land for a period of 10 years or until a school is built. In the event ECC do not use the Education Land, as set out in the s106 agreement, the owners have the right to have the land returned to them, under similar terms, 10 years after the original transfer date.
- 3.10 The s106 agreement also provides for financial contributions from the developer towards additional primary school and EY&C places. These contributions can only be used on-site and, in the absence of a deed of variation being agreed by the Development Site owners, the sums would need to be returned if the Education Land is not used. The sums have been received and stand at £1,245,496.07 for primary and £384,636.57 for EY&C excluding interest.

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 support the Council's ambition to be net carbon neutral by 2030 by ensuring that sufficient school places can be provided within walking distance of new homes.
- 4.3. This report links to the following strategic priorities in the emerging Organisational Strategy 'Everyone's Essex':
 - 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 A: Exercise the option provided by the s106 agreement to purchase the 1.2ha of Education Land at a cost of £80,001 plus fees, paid for using s106 receipts. This option is **recommended** as it delivers land that can be used for a new primary school and commensurate EY&C provision if significant additional capacity is needed over the next ten years. The high degree of uncertainty that exists over levels of housing growth and limited school expansion options in the area weigh in favour of this option.
- 5.2 Option B: Do not exercise the option provided by the s106 agreement to purchase the Education Land. This is **not recommended** as school transport may be required to access alternative schools with space to expand and the financial contributions set out in the s106 agreement can only be used on new facilities on the Education Land.
- 5.3 Option C: Exercise the option provided by the s106 agreement to purchase part of the Education Land. Up to 0.4ha of the site could be purchased for £1 and 0.13ha would be sufficient to accommodate a 56-place stand-alone EY&C facility. This option is **not recommended** for the same reasons as Option B albeit, with the purchase of land from the adjacent development, a smaller new school could potentially still be established.

6 Issues for consideration

6.1 Financial implications

- 6.1.2 The cost of exercising the land option in full would be £80,001 plus fees. This will be an addition to the capital programme and will be fully funded from received s106 monies.
- 6.1.3 In the event that the land is not secured and used for education purposes in excess of £1.6m may need to be returned to the Development Site owners. If the land is required to be returned to the developer this will be returned for the same consideration that ECC will purchase the land. Therefore the cost of this would be limited to the fees involved and would be funded from existing budget.

6.2 Legal Implications

- 6.2.2 The terms of the land transfer and use of the financial contributions are set out in the signed s106 agreement.
- 6.2.3 A decision of the Cabinet Member is required as the land is being acquired in anticipation of future requirements. This is required so that ECC can acquire the land before the option expires.

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.

6 List of Appendices

Appendix 1 – Site Plan

Appendix 2 – Equalities Comprehensive Impact Assessment

7 List of Background papers

None

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Christopher Whitbread, Chancellor of Essex	21.12.23

In consultation with:

Role	Date
Councillor Tony Ball, Cabinet Member for Education Excellence, Lifelong Learning and Employability	20.12.2023
Executive Director, Corporate Services (S151 Officer)	15.12.2023

Daniel Tooke on behalf of Nicole Wood	
Director, Legal and Assurance (Monitoring Officer)	23.11.23
Katie Bray on behalf of Paul Turner	