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| <b>Meeting:</b>         | <b>Cabinet</b>  |
| <b>Meeting date:</b>    | <b>21 July 2016</b>   |
| <b>Title of report:</b> | <b>Colwall CE Primary School</b>                                |
| <b>Report by:</b>       | <b>Cabinet member for young people and children's wellbeing</b> |

## **Classification**

Open

## **Key decision**

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

## **Wards affected**

Hope End

## **Purpose**

To approve the building of a new school for Colwall Church of England Primary School at the identified site of Mill Lane, Colwall. This will include the purchase of land to enable building to take place and associated works to fulfil planning and transport requirements.

## **Recommendation(s)**

**THAT:**

- (a) a new primary school for Colwall be located on the Mill Lane site identified in appendix 1; the purchase of land at the Mill Lane site at a cost of £1.2m, be agreed, subject to planning consent being secured;**
- (b) the building of a one form entry primary school for Colwall including associated works to fulfil planning and transport requirements and fees at a cost of up to £5.1m be approved conditional on planning consent being secured;**
- (c) the payment of an option agreement fee of £50,000, included in the estimated £1.2m for purchase of land, to secure the land sale be made; and**
- (d) authority be delegated to the director for children's wellbeing to take all**

**operational decisions necessary to implement the above recommendations within the budget agreed.**

## **Alternative options**

- 1 The school remain in the current temporary buildings. These are not fit for purpose for a permanent school and would incur significant cost to rent over the long term; greater than a permanent building. Cabinet has already determined the need for a new school subject to the development of a satisfactory business case.
- 2 To build a permanent school on another site. The existing site is not fit for purpose and the school continues to experience issues with underground water. A new school building on the present site has been assessed as costing significantly more than a new build on a new site. Estimates suggest costs to be £6.5m. Alternative sites have been explored and rejected as they are too constrained by planning or highway issues. The neighbourhood development planning process also identified the proposed site as the preferred one.

## **Reasons for recommendations**

- 3 To provide a permanent, modern and fit for purpose school building for Colwall CE Primary School.

## **Key considerations**

- 4 The council's capital programme includes provision of £6.5m to build a new one form entry school building for Colwall CE Primary School. This followed cabinet's decision, subject to a satisfactory business case, to replace the current school. The school has been operating from temporary buildings since September 2014.
- 5 A scheme to establish a new school building for September 2017 has been developed through full consultation with pupils, parents and carers, staff, governors and the local community. It is supported by the Diocese of Hereford. The scheme's planning application is scheduled to be determined on 3 August 2016.
- 6 The options appraisal for the replacement school included full consideration of appropriate sites in Colwall. A number were initially identified and have been discounted on the basis of suitability. The site recommended is on Mill Lane, Colwall, adjacent to the village hall. Negotiations have taken place with the landowner and a price has been established for the land required. It is the responsibility of the council to purchase the land for a school in this instance, because it is recognised that there is a need for the school in terms of the council's education sufficiency duty. The existing site is held by trustees, the council and the Hereford Diocesan Board of Finance. Trustees are legally bound to provide proceeds from sale of the site if the new site is worth more or the same as the old site (subject to legal confirmation). The new site will transfer to the trustees, as is legally required.
- 7 The scheme is being developed through the West Midlands SCAPE framework (a public sector owned built environment specialist). There were two eligible contractors on the framework and through an information questionnaire Kier Group were chosen as the partner to deliver the scheme. This was done to ensure best value for money.
- 8 Council officers have also taken the opportunity to submit a successful bid to the government's national Priority School Building Programme. The Education Funding Agency (EFA) have agreed the council can deliver the school through the SCAPE framework. Usually such schemes delivered through the EFA procurement route have

to conform to strict parameters in terms of design, quality and build. It is a mechanism that can provide cost savings by a large number of schools being commissioned in a single batch. Negotiations have taken place with the EFA regarding the proposed scheme, which usefully provided an additional level of challenge to the proposals and costs. The result of this work is that the EFA is willing to contribute to the delivery of the building when the council have secured a suitable site, which therefore represents a saving to the council from the £6.5m budget. The EFA contribution also includes £125k towards feasibility work, which offsets the additional cost the council has had to incur to fulfil the requirements of the Priority School Building Programme. Further detail is contained in the finance section of the report.

- 9 The scheme will provide a permanent high quality value for money school that will support excellent education for children in Colwall and the surrounding area for generations to come and will be a significant asset to the village and local area.

## Community impact

- 10 The decision supports the council's Schools Capital Investment Strategy that recognises the important contribution of high quality education to the lives of children, to the wellbeing of residents and to future economic prosperity. By agreeing to permanent, high quality school buildings this decision will play an important part in the delivery of the council's aspiration for the local area. There has been strong support from pupils, parents and carers, and Colwall school staff and governors to the new build and broad support from the local community.

## Equality duty

- 11 A new school building will be compliant with current legislation and best practice to support all children to access the curriculum, learning and development opportunities. This includes all children with learning difficulties and disabilities, and all staff and any visitors to the school.

## Financial implications

- 12 The council's capital programme has made provision of £6.5m for the scheme for Colwall CE Primary School. This included provision for the purchase of land, the build of a new school and the disposal of the existing site. The total costs of land purchase and delivery of the scheme are currently estimated to be £6.3m against a budget of £6.5m. The indicative EFA contribution to the scheme, is £3m subject to the purchase of land by the council, and planning approval. This would represent a significant saving to the council from the initial estimated budget requirement. The contractor is currently working with the council on further definition of the projected costs, which will be reviewed again by the EFA as part of their determination of their level of contribution. This will be completed by 11 July 2016 and any update will be verbally reported to the cabinet.

### Purchase of Land

|  | Amount £000 |
|--|-------------|
| Estimated cost, including option agreement fee | 1,200       |
| Council budget                                 | 1,200       |

## Build and associated works, including highways

|                                       | Amount £000 |
|---------------------------------------|-------------|
| Total Cost                            | 5,100       |
| Funding:                              |             |
| Indicative EFA funding                | 3,000       |
| Nursery capital                       | 100         |
| Estimated sale of site                | 300         |
| Council budget for building and works | 1,700       |
| Total                                 | 5,100       |

## Legal implications

- 13 This is a key decision to be taken by Cabinet in line with section 3, paragraph 3.2.1 of the Council's constitution.
- 14 Colwall CE Primary School is a voluntary controlled primary school, which means that the land and buildings for the school are held on trust for the school, by trustees, and are not owned by the council.
- 15 The council has a statutory duty to provide suitable education for the local eligible population and ensure that there are sufficient schools within Herefordshire that are maintained to standard that ensures the health, safety and welfare of pupils and staff.
- 16 The Council has a statutory duty, as set out in Sections 13(1) and 14(1) and (2) of the Education Act 1996 to both secure education suitable to the needs of the population of Herefordshire and to ensure that there are sufficient schools providing both primary and secondary education in the area. Under this legislation schools available within the council's area shall not be regarded as sufficient unless they are sufficient in number; character and equipment to provide for all pupils the opportunity of appropriate education.
- 17 Section 16 of the 1996 Act states that for the purposes of fulfilling its functions under the act (including those set out above) the council may establish schools and maintain schools, whether maintained by them or not; and assist schools which are not maintained the council.
- 18 The Schools Premises (England) Regulations 2012, which apply to all schools maintained by the local authority including voluntary controlled schools such as Colwall, state that school premises and the accommodation and facilities provided therein must be maintained to a standard such that, so far as is reasonably practicable, the health, safety and welfare of pupils are ensured.
- 19 As set out in the previous cabinet report, the need for a primary school to be located in the Colwall area to provide education to those living nearby has been confirmed. The existing school / site is no longer fit for purpose due to the water damage and the use of temporary buildings.
- 20 The School Standards and Framework Act 1998 sets out in Schedule 3 the statutory obligations of local authorities with regards to the provision of sites and buildings (otherwise than in connection with statutory proposals). Section 2(1) of Schedule 3 states that in the case of a voluntary controlled school the local authority shall provide any new site which is to be provided in addition to or instead of the school's existing site and any buildings which are to form part of the school premises. Paragraph 2(3) of

schedule 3 of the 1998 Act states that where a site is provided for a school under this paragraph the local authority shall transfer their interest in the site, and in any buildings on the site which are to form part of the school premises to the trustees of the school, to be held by them on trust for the purposes of the school. Additionally the local authority shall pay the reasonable costs of the trustees in relation to the transfer.

- 21 In return for this transfer of land and buildings, the 1998 Act sets out at paragraph 2(6) of Schedule 3 that where the transfer is made under this provision and the transfer is made to persons who have, or are or may become entitled to , proceeds of the sale of other premises which have been used for the purpose of the school, those persons shall notify the local authority and pay to the local authority so much of that sum as, having regard to the value of the interest in the new site transferred to the trustees, may be determined to be just, whether by agreement between the parties or in default of agreement, by the Secretary of State.
- 22 Acquisition of the proposed site will be subject to planning.
- 23 The precise terms of the sale to the Council will need to be agreed before title can pass, i.e. the sale complete. Legal Services understand that the arrangements for proper access may involve a third party landowner whose requirements and willingness to facilitate the project are not yet known. Legal also understand that the site is currently tenanted at least in part if not whole and, again, the requirements of that tenant party will also need to be established. Any arrangement with these third and fourth parties may well involve additional expense in terms of compensation and inflated legal costs.
- 24 The proposed arrangement with the landowner is to be a developer's 'Call Option', commonly known as an option to purchase. More often than not landowners require payment for granting these option rights.

## **Risk management**

- 25 There is strong support for a new school building on the Mill Lane site, but there are objections that will be considered in the planning process to the traffic management proposals, which some suggest will have a potentially adverse impact on some members of the community. These concerns have been addressed as part of the planning application to ensure that children are enabled to have safe access to the school, within an area of outstanding natural beauty.
- 26 There is a risk that the new school building is not delivered for September 2017 in time for the start of the new school year. This includes a risk that the land purchase will take longer than envisaged. This will be addressed through project management and an assessment through the purchase and build programme of likely risks and mitigation within the approved budget. If the school were to continue with the temporary buildings for a further period this could potentially be achievable but at significant detriment to the quality of education and at significant cost to the council, including further rent costs for the temporary buildings and costs in delays to the new scheme. The buildings are being charged at £5671 a week
- 27 The original site and school building suffered from significant flooding and water ingress, making the site unsuitable. The proposed site removes any such risk to the new building.
- 28 There is a risk that the scheme costs more than the budget. There has been considerable scrutiny of the proposed scheme and costs and the EFA has also reviewed the scheme in detail. There is therefore a high level of confidence that the

costs, as far as can be determined, have been done realistically.

- 29 There is a low risk that the EFA do not contribute any money to the scheme. The council has made provision in its capital programme to cover the total costs of the scheme. Council officers and contractors have been working closely with the EFA to agree the approach and details of the scheme. The EFA have their own governance processes to go through. At this stage the EFA are indicating that they would give an agreement in principle, on condition of the purchase of land and planning agreement, to the scheme going ahead with a significant contribution of funding from them. The decision from the EFA is due mid July.

## **Consultees**

- 30 Consultation has taken place with pupils of Colwall CE Primary School, parents and carers, staff, governors, the local community, Colwall Parish Council, the Diocese of Hereford, the ward member (councillor Antony Johnstone, leader of the council) and a range of other interested parties, including the Malvern Conservators and the Education Funding Agency. Consultation has played an important part of the planning process.

The headteacher and staff provided ideas about how the building would meet the national guidelines on the facilities that schools should have. The designers brought together a suitable layout that provided the child centred journey from nursery to the end of the primary years.

Environmentalists and other interested parties who focus on ensuring the landscape and environment were not unreasonably affected by the placing of the school in an area of outstanding natural beauty (AONB) contributed many ideas about the shape and form of the building, the hard and soft landscaping and the colour and materials used. The proposed design has been influenced by this consultation whilst keeping within the cost envelope.

Many in the local community, whilst keen to see a new school in the village, wanted it relocated to the proposed new site. There were some who were less keen, fearing highway disruption. The views of these people were listened to and changes made. The highway works were difficult to agree but consultation and discussion with representatives for the parish council, Herefordshire council highways team and the designers has taken place. The proposals are considered safe and yet deemed to have the minimum impact on the rural village community.

## **Appendices**

Appendix 1 Colwall School proposed site plan

### **Background papers**

- None identified.