

Meeting:	Cabinet
Meeting date:	Thursday, 23 July 2020
Title of report:	John Kyrle High School and Sixth Form: new permanent accommodation
Report by:	Sufficiency Planning and Capital Investment Manager, Head of Educational Development

Classification

Open

Decision type

Key

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 concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

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

Ross North; Ross East; Ross west;

Purpose

To approve a new permanent building at John Kyrle High School & Sixth Form Centre to accommodate additional pupils admitted from September 2021 in response to rising numbers in Ross-on-Wye and to meet parental preference, and to agree the procurement approach to deliver the required works.

John Kyrle High School & Sixth Form Centre is rated Good with Outstanding features by Ofsted and has been consistently oversubscribed since 2009. In recent years additional permanent accommodation has been provided and funded by John Kyrle to enable additional children to attend.

Funding has been identified in the council's capital programme, using basic need government grant, to enable John Kyrle High School & Sixth Form Centre to expand by one form of entry. A grant will be provided to John Kyrle High School & Sixth Form centre to deliver a new science block which will provide additional classrooms and associated support spaces. The project will be delivered and managed by John Kyrle.

Recommendation(s)

That:

- (a) Subject to securing planning consent, a grant of £2,300,900 be awarded to John Kyrle High School and Sixth Form to fund an extension to the John Kyrle High School & Sixth Form Centre to enable its permanent expansion from seven forms of entry (210 pupils per year group) to eight forms of entry (240 pupils per year group); and**
- (b) The grant being made subject to a requirement that the build be designed and completed with the objective of obtaining a BREEAM excellent or Passivhaus certification. £260k of the grant being allocated is specifically for this purpose.**

Alternative options

1. The grant is not provided. This is not recommended. There is already a pressure on places in Ross-on-Wye. Failure to invest in John Kyrle means the additional places required for 30 children in year 7 could not be accommodated at John Kyrle in September 2021 or future years. As there is no alternative secondary school in Ross-on-Wye the children would have to travel out of Ross and be accommodated at another school in Herefordshire or in Gloucestershire.
2. Further mobiles could be installed to provide the additional classroom space required. This is not recommended as the siting of a mobile would not be considered best value as they are looked upon as temporary solutions, have a finite life in planning terms and do not have the life span that permanent build accommodation would have. The council's School Capital Investment Strategy includes the objective that children are not taught in temporary classrooms.
3. The council manage the project. This is not recommended as this would not maximise the value of the work that could be secured from the budget allocated. The school have a previous track record of managing large-scale projects with values exceeding £1m to time and budget. Enabling John Kyrle to deliver the project removes the risk from the council as the grant is finite and any expenditure above the grant provided will have to be met by John Kyrle.

Key considerations

4. Secondary school numbers are rising in Herefordshire in common with the rest of England. This is as a result of higher numbers of children born over the past ten or so

years as previous boom generations reach childbearing age, supplemented by higher migration from the EU8 accession states from 2004 onwards. In Herefordshire the areas most affected are Ledbury, Hereford and Ross-on-Wye.

5. Ensuring there are sufficient school places to meet parental demand is a statutory duty for councils. This means that councils must make population and pupil forecasts in order to anticipate changes in demand. Where additional places are required the council is responsible for securing them. This applies to maintained schools, voluntary controlled schools, voluntary aided schools, free schools and academies.
6. One form of entry (30 pupils per year group, 150 pupils in total) is urgently required to meet growing numbers in Ross-on-Wye.
7. Central government allocates basic need funding based on council forecasts. This is divided into primary and secondary allocations. To date £6.9 million has been allocated in 2020/21 for secondary provision. Some of this grant will be used to fund the grant being offered.
8. Section 106 (S106) contributions can be requested from housing developments where the development comprises more than 10 houses and it can be shown that there is a deficiency of school places in the catchment area. To date £180k has been received from these developments which is specifically allocated to John Kyrle and will be used to part fund the grant for this project. This sum does not include any contributions agreed but not received, or in relation to potential developments where no S106 agreement has been formed. However, should further contributions be received towards John Kyrle whilst the build is in progress these may be used to further offset the basic need allocation required.
9. The Ross-on-Wye planning area, in terms of forecasting, has only one secondary school, John Kyrle, which is an academy. It is currently rated Good with Outstanding features by Ofsted. John Kyrle has a planned admission number of 210 pupils per year, but has been consistently oversubscribed since 2009.
10. A meeting was held with council officers, the head teacher and governors of John Kyrle. The head teacher and governors had a clear vision for how the expansion could be delivered and welcomed the opportunity. John Kyrle regards itself as the school of choice for the Ross area and is happy to expand to meet demand from the local parents.
11. John Kyrle undertook a curriculum analysis to help identify the spaces that would be required to enable an expansion. John Kyrle found that science provision was inadequate with six of its ten science laboratories well below the size standard recommended by the Department for Education's (DfE) Building Bulletin 103 Area Guidelines for Schools (BB103).
12. The proposed new building that will be funded by the grant will be a modular build, comprising six specialist science laboratories with science preparatory rooms and other associated ancillary spaces including toilet provision. The build will follow the DfE's BB103, which sets out nationally agreed standards. This will enable some of the existing inadequate science laboratories to be repurposed to provide other curriculum areas needed by the school to accommodate the increased intake. The cost of the re-purposing of spaces lies outside the scope of this grant.

13. John Kyrle will be required to adhere to the DfE guidance addressing specific aspects of school design, such as acoustics, lighting, ventilation, fire safety, and accessibility, in the design of the new building.
14. The completed works will also be required to conform to all relevant safeguarding standards in respect of fencing and controlled access.
15. The completed works would need to ensure that the building can be maintained cost effectively in the long term and include appropriate environmental measures to reduce energy costs. As a minimum the council will require the building to be built with the objective of achieving the principles of a Building Research Establishment Environmental Assessment Method (BREEAM) excellent or Passivhaus certification.
16. Prior to construction starting, John Kyrle will provide the council with evidence of the appointment of the contractor and assurance that the building will have adequate insurance cover.
17. Any variations to the agreed brief and timescales for delivery will be notified to, and approved by, the council prior to implementation.
18. Monthly reports will be provided to the council in advance of regular monthly meetings at which a representative from the council will attend. These meetings will keep track of performance, progress and spend on the project. The council representative will be given reasonable access to the site to monitor the progress of the project. A final status report will be provided upon completion of the project to confirm that the project has been successfully and properly completed.
19. Payment will only be made to John Kyrle upon confirmation that all relevant legal permissions are in place e.g. planning and building regulations. Satisfactory receipts relating to qualifying expenditure and certified invoices will be required from John Kyrle along with proof of payment before any funds are transferred.
20. A final date for claims will be agreed between the council and John Kyrle. Any invoices received after this date may not be processed.
21. Since becoming an academy John Kyrle have extended its buildings twice to accommodate increasing pupil numbers. John Kyrle successfully managed both projects themselves, each costing over £1m, delivering within budget and on time.
22. An agreement will be entered into between John Kyrle and the council. This will stipulate that the council will provide a finite amount of grant funding for specified building works, John Kyrle will procure and manage the project themselves, John Kyrle take responsibility and risk of any overspend and a commitment by John Kyrle to formally increase their future admission numbers from September 2021 to 240 pupils per year, this includes altering their funding agreement to show the increase.

Community impact

23. John Kyrle is highly valued by the local and surrounding community. It provides high quality education for its children and an extensive adult and community learning programme. This is in addition to augmenting the science departments outreach programme with other schools, some of which involved pupils visiting John Kyrle to undertake experiments.

24. These activities support the council’s County Plan Ambition to strengthen communities to ensure that everyone lives well and safely together and the Children & Young People’s Plan Pledge of helping all children and young people succeed – be amazing. The proposed works will include mitigation of potential health and safety and safeguarding risks, aim to provide well maintained buildings which are more cost effective to run and therefore benefit all pupils, including looked after children and care leavers.
25. The environmental measures to be incorporated within the build will support the council’s Carbon Management Plan’s target and areas of work for projects and Schools & Academies.
26. The proposal to expand John Kyrle has been a priority according to the principles set out in the Schools Capital Investment Strategy. The requirement for an extra form of entry is supported by previous school census and forecasting data. The following table shows the published admission number, the past observed and future based forecast numbers of children aged 11 (year 7) at John Kyrle, the only school in the planning area.

	PAN	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031
Ross	210	253	237	238	251	258	253	256	261	240	246	248	254	254	260

Equality duty

27. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
28. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying ‘due regard’ in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation. The new building will be fully compliant with disability legislation and take into account the needs of pupils and users with protected characteristics.

Resource implications

29. John Kyrle has already delivered building extensions to provide a maths block and a physical education suite. Both projects cost over £1m and were managed and funded by John Kyrle.

30. A finite amount of grant funding will be made available to to John Kyrle for the delivery of the new science block. Any costs above the grant funding allocated will be met by John Kyrle reducing the risk to the council. Basic Need Grant is awarded to the council by DfE to provide additional school places where needed. So there is no cost to the Council on awarding use of this grant and S106 funding received from developers for the same purpose to John Kyrle.

31. The funding has been secured as follows:

Basic Need	£	1,861,414
Section 106	£	179,486
Additional Basic Need required for BREEAM excellent or Passivhaus certification	£	260,000
Total available	£	2,300,900

32. The figures shown are not final costs for the project however they are based on a high level analysis of the proposed scheme and represent the maximum amount of grant funding that will be allocated to John Kyrle for delivery of the project.

33. The basic need allocation may be reduced if further S106 contributions are received for John Kyrle whilst the build is in progress.

34. The requirement that the project works towards a BREEAM excellent or Passivhaus certification adds additional costs to the project of approximately 12.5%. These additional costs are included in the grant funding and this element will be met from the basic need budget, however this may have subsequent impact on future projects that also need to be delivered from this budget as the level of funding available will have been reduced to cover these costs.

Legal implications

35. The council has a statutory duty to ensure the delivery of sufficient educational provision for the children in the county under s14 Education Act 1996. In facilitating the development of a new science block the current science teaching space will be vacated allowing it to be repurposed and used to support the proposed additional places required for 30 children in year 7 from September 2021.

36. In relation to this project the council is not undertaking the works themselves but are instead looking to make a grant to John Kyrle to undertake the works themselves.

37. There is no statutory duty requiring the council to make a grant to a school to undertake capital works but under s1 Localism Act 2011, the general power of competence, the council can do anything that individuals generally may do.

38. The grant will be provided to John Kyrle under the terms of a grant agreement to be drafted by legal services which will set out clear objectives for the use of the grant monies as well as a clawback mechanism for the grant monies if there is a breach of the grant agreement. John Kyrle will only be able to claim the grant in retrospect against qualifying expenditure and each claim will have to be supported by relevant evidence. The agreement will also require regular project meetings between John Kyrle and the council which will allow the council to monitor the progress of the project.

Risk management

39. There may be reputational risk to the council if the basic need monies are not spent effectively and we do not meet rising demand in Ross-on-Wye by September 2021. As John Kyrle intends to commission modern methods of construction including modular builds means that schemes can be delivered up to 50% faster than traditional methods of construction. John Kyrle are confident that using the proposed modular build approach, September 2021 is still achievable, albeit very tight.
40. There is a risk that the project will not be complete by September 2021. John Kyrle will delay the repurposing of the existing science laboratories until the new provision is ready. Science could also be taught in general teaching classrooms; not ideal but manageable for a short period.
41. There is a risk that planning permission is not granted. Planning has been contacted and their advice sought. Initial comments are that school expansions can be contentious mainly on highways grounds and the impact on amenity and privacy of neighbouring residents. It is anticipated that these aspects will be considered as part of the design process and any further comments received from planning as part of the consultation will be acted upon.
42. There is a risk that the final costs of delivering the scheme, design and construction, will exceed the budget available. The grant funding provided to the academy will be finite and the agreement between John Kyrle and the council will stipulate that the risk of any overspend will lie entirely with John Kyrle.
43. There is a risk that by utilising some of the basic need funding to cover that part of the grant funding to meet the increased costs required to work towards a BREEAM excellent or Passivhaus certification, there will be insufficient funds available to cover other projects required to be delivered using this funding source. Additional funding may therefore be required from corporate borrowing to cover future projects.

Consultees

44. In accordance with the principles in the Schools Capital Investment Strategy, in Autumn 2018, secondary school leaders were consulted on the wider options for where, when and how any additional secondary capacity could be created to respond to the coming growth in demand. There was a consensus that there was a need for provision to be expanded in Ross-on-Wye.
45. The cabinet member for commissioning, procurement and assets and the cabinet member for children and families have been consulted and is supportive of the project and its proposed management.
46. The local ward members have been consulted. One response has been received in support of the project stating that it seemed sensible for John Kyrle to manage the project given their previous successful record at doing so and their willingness to bear the risk of any overspend. The only concern was to ensure the council had oversight to ensure the project was delivered to specification, cost and timescales. This is included in the agreement that the school will be entering into.
47. Political groups have been consulted. Two responses have been received both in support of the project and approving of the inclusion of the BREEAM excellent or Passivhaus

certification which is in keeping with the commitment to tackling the climate emergency. The other comment received was surrounding the ability for the project to enable local children to attend the local school. The admissions criteria for the school include catchment area as one of the first priority criteria for offering a place.

48. John Kyrle will be conducting a wider public consultation ahead of making any application to the Regional Schools Commissioner to increase its capacity.

Appendices

Appendix 1 - Darwin Group Ltd – High Level Feasibility Report

Background papers

None identified.

Glossary of terms, abbreviations and acronyms used in this report.

DfE Department for Education

BB103 Department for Education's Building bulletin 103: Area Guidelines for Schools

S106 Section 106 housing developer contributions