

Decision Pathway – Report



PURPOSE: Key decision

MEETING: Cabinet

DATE: 7th February 2023

TITLE	Education Mainstream Year 7 Temporary Expansion - Investment Decision (PFI)	
Ward(s)	Multiple Wards Across the City	
Author: Richard Hanks	Job title: Acting Director, Education & Skills	
Cabinet leads:	Executive Director lead: Abi Gbago - Executive Director: Children and Education	
<ul style="list-style-type: none"> • Councillor Craig Cheney, Designated Deputy Mayor with responsibility for City Economy, Finance & Performance. • Councillor Asher Craig, Cabinet Member for Children’s Services, Education and Equalities. 		
Proposal origin: BCC Staff		
Decision maker: Cabinet Member		
Decision forum: Cabinet		
Purpose of Report:		
<ol style="list-style-type: none"> 1. To approve the spend of capital grant from the Department for Education (DfE) and revenue funding from schools’ contributions and the Education General Fund budget to support the temporary expansion of Secondary pupil places at three Private Finance Initiative (PFI) Academy schools. The projects will deliver additional temporary school capacity to enable the council to continue to meet its statutory obligation and help ensure sufficient mainstream school places are available in the city. A Cabinet decision is required in February 2023 to enable offers to be made ahead of March 2023 and mitigate the risk of BCC failing to meet statutory duties. 2. To provide authority to the Strategic Supplier Relations Manager - Procurement and Contract Management Service (the PFI Authority Representative) to take all steps required to make the required amendments to the three FI education, project agreements, PFI Phase 1A and PFI Building Schools for the Future (BSF) contracts, the relevant academy agreements and principal agreements required to adopt the changes. 3. To provide authority to the Executive Director, People in consultation with the Cabinet Member for Children’s Services, Education and Equalities to take all steps required to enter contracts required for the amendments to the PFI contracts (including individual contracts over £500k). 		
Evidence Base:		
<ol style="list-style-type: none"> 1. Two new secondary Free Schools have been approved for opening in the city under the DfE’s Free Schools Programme. The construction of the new schools by the Department for Education have been delayed requiring the schools to open in temporary accommodation from 2023/24. The timely opening of these schools is essential to support the Council in securing sufficiency of mainstream school places. 2. In response to these delays the Council has worked with existing schools, from the autumn of 2021, across the city to identify where additional temporary capacity can be secured to meet the projected year 7 application numbers for 2022/23 and what capital interventions are required to make them feasible. The January 2022 Cabinet papers identified associated capital costs for PFI and non-PFI schools and provided authority for the delivery of capital works. 3. The Council receives Basic Need Grant funding (BNGF) from the DfE. This capital is provided to allow the Council the ability to work with schools to create additional school places. 		

4. Due to inflation the contractor proposals for the capital works are more than the construction cost estimates provided in the January 22 Cabinet paper. A contingency capital allowance of £680k to manage market factors and inflation, was prudently set aside within the January 2022 Cabinet papers. £124k of this capital contingency from unallocated BNGF will be committed to meet the actual cost of the temporary expansions (Appendix I1).
5. The Cabinet papers on 18th January 2022 and 6th September 2022, including Appendices, provide the background for the evidence base to support the capital costs to bulge increase mainstream Secondary places from September 2022. Of the six schools identified, three are PFI and three are non-PFI. Capital works at three non-PFI schools have been completed within 2022 to provide additional capacity.
6. This Cabinet paper (February 2023) provides additional financial information for the Capital and OPEX (Operational Expenditure) resources needed to secure the additional capacity at the three PFI schools (Appendix I2) to provide essential Secondary pupil places. OPEX costs include annual maintenance, lifecycle, utilities consumption, insurance increases and operating costs.

Cabinet Member / Officer Recommendations:

That Cabinet:

1. Authorises the Executive Director: Children and Education in consultation with the Cabinet Member for Children’s Services, Education and Equalities or the Designated Deputy Mayor with responsibility for city Economy, Finance and Performance, to accept, allocate and spend grant funding from the Department for Education and award the contract(s) variations (including any individual contracts over £500k) necessary for the implementation of the Education Capital Projects in accordance with Appendix I1 and within the maximum budget envelopes outlined in this report.
2. Authorises the Executive Director: Children and Families in consultation with the Cabinet Member for Children’s Services, Education and Equalities or the Designated Deputy Mayor with responsibility for city Economy, Finance and Performance, to utilise £200k revenue funding to meet the PFI costs associated with the capital works (Appendix I2).
3. Authorises the Strategic Supplier Relations Manager - Procurement and Commercial Solutions (the PFI Authority Representative) to take all steps required to make the required variations to the two PFI education, project agreements, PFI Phase 1A and PFI Building Schools for the Future (BSF) contracts, the relevant academy agreements and principal agreements required to adopt the changes.

Corporate Strategy alignment:

1. Fair & Inclusive - Improve educational outcomes and reduce educational inequality, whilst ensuring there are enough school places to meet demand and a transparent admissions process.
2. The decisions proposed in this paper will support the Councils ability to ensure sufficient Secondary school places are available to meet demand in the city. The decision to invest will also support education providers and council officers in improving educational outcomes and reducing inequality through providing high quality education environments in areas of need and for young people starting from a disadvantaged position.

City Benefits:

1. The projects will deliver additional school capacity to enable the council to continue to meet its statutory obligation and help ensure sufficient mainstream school places are available in the city.
2. Refurbished buildings to provide high quality and modern learning environments.
3. Increase in Social Value opportunities during the design and construction and buildings in use.

Consultation Details:>

1. People Scrutiny Briefing October 21’.
2. Department for Education and Regional Schools Commissioner (RSC).
3. Sufficiency issues - City leaders and education sector – 9th March 2020.

Background Documents:

[Education Capital Programme of Works Cabinet papers 18 Jan 2022](#)

[Education Capital Update and Capital Investment Decision Cabinet papers 6 Sept 2022](#)

Education Act 1996

<https://www.legislation.gov.uk/ukpga/1996/56/contents>

Children's and Families Act 2014

<http://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

SEND Code of Practice 2015 (Stat Guidance)

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

Equalities Act 2010

<https://www.legislation.gov.uk/ukpga/2010/15/contents>

The Academies Act 2010

[Academies Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/25/contents)

Revenue Cost	£200k	Source of Revenue Funding	School Contributions/Education GF
Capital Cost	£124k	Source of Capital Funding	Education Capital Contingency (BNGF)
One off cost <input checked="" type="checkbox"/>	Ongoing cost <input checked="" type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice:

This report seeks approval to accept, allocate and spend grant funding from the Department for Education and award the contract(s) necessary for the implementation of the Education Capital Programme in-line with the recommendations and maximum budget envelopes outlined in this report.

The total estimated cost of the capital proposals in this report are c£2.2m as set out in the Appendix I2 against the capital budget agreed by Cabinet in January 2022. The proposal in this paper utilises £124k of the capital contingency in the agreed budget (Appendix I1).

The revenue costs are estimated to be a maximum of c£40k per year and will be funded by contributions from the schools with any shortfalls and risks being managed through the Education General Fund budget.

Finance Business Partner: Andrew Osei, Interim Finance Business Partner, 24 January 2023

2. Legal Advice: The proposed variations should not breach UK procurement rules or the council's procurement procedures and will follow the 'Authority Change' process under the main project agreements, with the contractor (SPV) required to procure the works. As the capital expenditure under these changes exceeds £100k (for each project agreement) the council may have the option of requiring the SPV to seek competitive tenders in respect of the works. Legal services will advise and assist officers in respect of the changes required to the contractual arrangements. Financial advice may also be required if changes are required to the Base Case (financial model) in respect of OPEX.

Legal Team Leader: Husinara Jones, Team Manager, Solicitor, 24 January 2023

3. Implications on IT:

I can see no implications on IT in regards to this activity.

IT Team Leader: Gavin Arbuckle – Head of Service Improvement and Performance, 13 January 2023.

4. HR Advice: As the proposals are set out in the report, there are no current HR implications for Bristol City Council employees. However, once the proposals have been agreed and implementation plans are in place we may need to revisit the plans and assess the impact of any changes that may affect our employees.

HR Partner: Lorna Laing, HR Business Partner – People, 13 January 2023.

EDM Sign-off	Abi Gbago, Executive Director: Children and Education	25 January 2023
Cabinet Member sign-off	Councillor Asher Craig, Cabinet Member for Children's Services, Education and Equalities	27 January 2023

For Key Decisions - Mayor's Office sign-off		
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Appendix A – Further essential background / detail on the proposal	NO
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment See the Risk Assessment appended to the Cabinet Report dated 6 th September 2022 referred to in the Background documents.	NO
Appendix E – Equalities screening / impact assessment of proposal See the EqIA appended to the Cabinet Report dated 6 th September 2022 referred to in the Background documents.	NO
Appendix F – Eco Impact Checklist	NO
Appendix G – Financial Advice Ref Section 1 'Finance Advice' in table above – no additional information required.	NO
Appendix H – Legal Advice Ref Section 2 'Legal Advice' in table above – no additional information required.	NO
Appendix I – Exempt Information I1 – Secondary School Expansion – Forecast costs I2 - PFI – Estimated Design, Construction and OPEX costs	NO
Appendix J – HR advice Ref Section 4 'HR Advice' in table above – no additional information required.	NO
Appendix K – ICT Ref Section 3 'Implications on IT' in table above – no additional information required.	NO
Appendix L – Procurement Ref Section 5 'Procurement Advice' in table above – no additional information required.	NO