

13 March 2024		ITEM: 19 Decision: 110714
Cabinet		
School Capital Programme Update 2023/24		
Wards and communities affected: All	Key Decision: Key	
Report of: Councillor Adam Carter, Cabinet Member for Education		
Accountable Assistant Director: Michele Lucas, Assistant Director Education and Skills		
Accountable Director: Sheila Murphy, Executive Director – Children’s Services		
This report is Public		
Version: Final / Cabinet		

Executive Summary

This report seeks Cabinet approval on one of the options proposed within this report including the approval of additional spend that is required for the expansion of Tilbury Pioneer Academy.

On 15th March 2023, Cabinet approved a budget of £3M along with the procurement process to appoint a design and multi-disciplinary project team to undertake required surveys and develop a detailed cost plan for the refurbishment of the part of the old block that was on the Tilbury Pioneer site and was due to be demolished. Following this detailed work and the increase in cost it is clear that Cabinet needs to reconsider whether new build is more feasible than refurbishment.

The expansion works for Tilbury Pioneer Academy will be funded from the DfE basic need grant (not Council general fund), which has sufficient funds available to cover either option presented within the report.

The report also seeks Cabinet approval of £1M to proceed with works to convert a council owned building in Northview Avenue, Tilbury to a secondary SEMH (Social, Emotional, Mental Health provision, which will be run by Olive Academy. The works will be funded from the DfE SEN Capital Grant (not Council general fund), which has sufficient funds available.

Additionally, this report provides an update on current capital projects managed by Thurrock Council which form part of the current school capital programme outlining the progress that has been achieved since the last report to Cabinet in March 2023.

The current programme aims to deliver sufficient pupil places for 2024/25 academic years in mainstream and SEN provision.

Commissioner Comment:

Commissioners have been consulted on the content of this report and agree with the recommendations made.

Version: Final / Cabinet

Recommendation(s)

Cabinet to approve recommendation 1.1 or 1.2 set out below:

- 1.1 To approve a £3.85M budget for refurbishment works to allow for the expansion of Tilbury Pioneer Academy to be funded from the School's Basic Need capital funding 2023/24.**
- 1.2 To approve a budget of £4.75M budget for the new build works to allow for the expansion of Tilbury Pioneer Academy to be funded from the School's Basic Need capital funding 2023/24.**
- 1.3 To approve the commencement of the procurement process in accordance with Council & UK procurement procedures to vary the appointment and scope of works to be undertaken by the Multi Discipline design team for the Tilbury Pioneer Expansion Project and appoint the Principal Contractors to take forward the proposed desired scheme.**
- 1.3 That authority be delegated to the Director of Children's Services, in consultation with the Education Portfolio Holder, to enter into any form of agreement following the award of the agreements arising from 1.1 or 1.2 above in compliance with the Council's procurement regulations.**
- 1.4 To approve a £1M budget for alternation works in Northview Avenue, Tilbury to allow for a secondary SEMH provision to be funded from SEN Capital government grant 2023/24.**
- 1.5 Note the recent in-year accommodation works that have commenced and completed in order to ensure sufficient pupil places for 2023/2024.**

2. Introduction and Background

- 2.1 The Council has a statutory responsibility to ensure that suitable and sufficient places are available in Thurrock for every child of school age whose parents wish them to take up a school place.**
- 2.2 The 2023/24 school capital programme has progressed well and incorporated innovative partnership working, as well as utilising modern methods of construction to deliver the identified additional pupil places needed.**
- 2.3 The demand for pupil places has increased significantly, over the last few years we have seen a large increase in 'in year' admissions from families moving into the Authority. In 2022/23, we received 647 applications for children that moved into Thurrock from outside of the UK, and 1005 applications for pupils from elsewhere within the UK. For the first 2 months of this academic year, we have had 213 applications for children who have moved into Thurrock from outside of the UK, and there have been 338 applications for new arrivals from elsewhere within the UK. We are currently not seeing a decrease in the demand; the level of demand has and continues to be unprecedented. To be able to accommodate this demand, we are building**

in additional places to support in-year growth across a number of year groups where it has been identified that we do not have sufficient school places.

PROGRESS UPDATE ON EXISTING PROJECTS

Abbots Hall Primary Expansion

- 2.4 Works started in March 2022, with the first 2 phases complete and fully operational.
- 2.5 The final phase of the project which includes a new 2-storey teaching block extension was due to be handed over in August 2023, however, the principal contractor (Lengard Ltd.) ceased trading in June 23, and went into receivership. New contracts have therefore needed to be procured in order to complete all outstanding works along with pre-existing defects meaning that completion of the scheme will now be by March 2024. The additional works are being funded from remaining funds held within the budget along with retentions that were held from the Lengard contract.

Temporary Classrooms

- 2.6 A single demountable classroom was installed in August 2023 to create additional capacity in year 3 at Somers Heath Primary. This has provided an additional 30 primary school places. The temporary classroom will remain onsite until the bulge year ends in four years. In addition, by creating these additional places, this prevents pupils being transported to the next nearest school with available places at the cost to the council.
- 2.7 A single demountable classroom has also been installed for one year to provide additional places in year 7 at Grays Convent. The demountable will be removed in the summer of 2024 when additional space will come available within the main school building when a previous bulge class completes its secondary education.

Tilbury Pioneer Primary Academy Expansion

- 2.8 On 15th March 2023, Cabinet agreed an estimated budget allocation of £3m to cover both an architect led multi-disciplinary design team responsible for providing specialist services needed to oversee the detailed and technical design for the expansion project, and a Principal Building Contractor for its construction phase.
- 2.9 Following completion of scoping and feasibility studies, the proposal for Tilbury Pioneer Primary Academy was to firstly apply to planning to retain the west wing of the old 'Tilbury Manor' building, then if successful, undertake a full internal & external refurbishment of this structure in order to provide the required accommodation. Upon completion, Tilbury Pioneer will have capacity to increase its pupil admission number (PAN) from 420 to 630 making this a 3-form entry primary School with an integral special needs Autism base.
- 2.10 The procurement and appointment of the multi-disciplinary design team was formalised on 20th June 2023, and works began to undertake more extensive surveys and develop a detailed cost plan which is appended to this report Ref: A3408_Cost Plan_Refurbishment.

- 2.11 This cost plan illustrates that the extent of works needed to bring the Tilbury Pioneer building up to modern standards significantly exceeds original expectations, this is compounded by the revision in June 2022 to Part L of the building regulations which places an increased requirement on developers with respect to improving thermal insulation in older buildings. In addition, the highways planning consultee response requires the provision of a 'one way' on site vehicular pupil drop off. The conclusion of the cost plan illustrates that the original budget allocation of £3m is short of what would be needed to complete the refurbishment works.
- 2.12 As a result of the work undertaken around the refurbishment and the significant increase in the potential costs related to the project the decision was taken to pause the project and identify other potential solutions. This has led to further investigations being undertaken to evaluate whether a new building would provide better value for money and building longevity. A developed cost plan is appended to this report ref: A3408_Cost Plan_New Build illustrating the anticipated costs of the new build option along with refurbishment cost option.
- 2.13 Given that both expansion options will require an increased budget allocation, an outline plan has been developed to visualise what could be achievable for a greater increase in financial commitment. Floorplan drawing, elevations drawing, a site plan as well as a 3d render are appended to this report to assist with consideration ref:
A3408_901_A_PROPOSED FLOOR PLANS,
A3408_902_A_PROPOSED ELEVATIONS,
A3408_903_A_PROPOSED SITE LAYOUT
A3408_904_PROPOSED RENDERS
- 2.14 The below table provides a summary of the like for like relative advantages and disadvantages of each option (new build versus refurbishment) the key deliverables are in bold text:

<u>Item/Element</u>	<u>New Build</u>	<u>Refurbishment</u>
Hall / Studio	2 no.	1 no.
Classrooms	9 no.	9 no.
SEN Resource Bases	4 no.	2 no.
SEN Breakout Space	2 no.	0
WC's	6 no	5 no.
Accessible WC's	2 no.	2 no.
PPA/Breakout space	2 no.	1 no.
Staff Room	1 no.	1 no.
Storerooms	7 no.	4 no.
Location (relative to main school block)	Connected at Ground and 1 st floor levels	56 Metres via external footpath
Expected Building Lifespan	70 years	20 years

Estimated Cost per Sqm.	£3,300.19	£3,142.18
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- 2.15 The contracts, will be below the UK government's Find a Tender Service (FTS) thresholds, and are therefore not subject to a fully published procurement process.
- 2.16 If approved, it will be possible for the commencement of a sub-FTS single stage procurement.

Olive Secondary SEMH Provision (Northview Avenue, Tilbury)

- 2.17 The proposal is to convert the decommissioned building into a temporary specialist Secondary SEMH (Social, Emotional Mental Health) base which would be run by the Olive AP Academy. The provision would be for an initial period of up to five years. The Olive AP Academy is awaiting the outcome of their free school bid.
- 2.18 Sketch designs, and a desktop costing study have already completed with initial indications showing that this project will have an estimated provisional total value of up to £1M, which would be funded from a government SEN capital grant, therefore at no cost to the council's general fund.
- 2.18 The building is currently decommissioned and is not being considered by Education for any other purpose.
- 2.19 There are no other alternatives buildings available in the Tilbury area that could accommodate this temporary provision. The provision needs to be located close to the Olive Academy to ensure sufficient resources (staffing) are available to support the new provision. The Olive Academy site has been considered, however if the free school bid is successful the new school will be built within the site, therefore leaving no available space to erect temporary provision.
- 2.20 A business case was presented to the Councils Strategic Property Board on 25th January 2024, where the proposed change of use was approved.
- 2.21 It is envisaged this provision will deliver significant savings to the Council over the next five years for pupils who would otherwise be placed in provision outside of the borough with high placement and transport costs.
- 2.22 There are 12 pupils placed in a SEMH secondary provision outside of the borough that could be educated locally if provision was available. The placement and transport costs over a 5 year period equates to £3,349,325.00. It is felt the £1M one off capital grant investment significantly outweighs the placement and transport costs over the same period.
- 2.23 There are currently 29 pupils receiving tuition where we are unable to secure a special school place, tuition is offered. The current cost of tuition per pupil is £30,400 for 38 weeks. This would equate to £912,000 per year for 30 pupils that could be placed in the new provision locally and receive intense therapeutic work as this would enable those pupils to be reintegrated back into mainstream settings over time and receive a full education.
- 2.24 A report will be presented to Cabinet in June 2024 to seek approval to re-tender Tuition Support Services. The anticipated total cost for this re-tender is estimated to be up to £3.4 million over a three-year period.

- 2.25 In addition to the 30 pupils receiving tuition, there are 405 pupils with and Education Health Care Plan, with SEMH identified as their main need within their plan. Of those 405, 308 are of statutory school age. Those pupils are currently attending mainstream school, however schools are finding it extremely difficult to continue to meet their needs.

3. Issues, Options and Analysis of Options

Tilbury Pioneer Academy

3.1 Option 1: Do nothing.

This option will not address the demand for school places, either mainstream primary, or SEND provision and will potentially lead to either consequential expense being drawn as a result of the Council funding home to school transport to either the next nearest school with available places, or out of borough schools that are in a position to accommodate pupils with SEND. Additionally, there is a high risk to the Council that it will fail to comply with its statutory duties under both Section 13 of the Education Act 1996, as well as Section 88 of the School Standards and Framework Act 1998.

3.2 Option 2: Continue with refurbishment.

This would mean cabinet agreeing an uplift in the total budget allocation to £3.85m to allow for the original refurbishment plan to proceed. This option only provides a lifespan of 20 years therefore there is no longevity in this option and does not provide best value. In addition, significant works will be required to ensure the required thermal properties are met in line with updated building regulations. It is also felt that this option does not provide best value.

The additional cost would be funded from the DfE basic need grant, which has sufficient funds available.

3.3 Option 3: New build (this option is recommended)

Agree an uplift in the total budget allocation to £4.75m and pursue the delivery of a new-build teaching block. This is the recommended option as it will deliver the best value in terms of achieving the key deliverables: DfE standard classrooms, hall space with secondary studio, SEN resource bases, and an increased longevity in terms of building lifespan of 70 years, this is 50 years longer than the refurbishment option 2. This option will also allow for nursery provision to be created to support the New Childcare Entitlement 2023 that was announced in the Spring budget as the school would then have space to relocate a KS1 class to the new building and provide nursery provision.

The additional cost would be funded from the DfE basic need grant, which has sufficient funds available.

Olive Secondary SEMH Provision (Northview Avenue, Tilbury)

3.4 Option 1: Do nothing

This option will not address the need for local SEMH provision and will potentially lead to either consequential expense being drawn as a result of the Council funding home to school transport to either the next nearest school with available places, or out of borough schools that are in a position to accommodate pupils with SEND. Additionally, there is a high risk to the Council that it will fail to comply with its statutory duties under both Section 13 of the Education Act 1996, as well as Section 88 of the School Standards and Framework Act 1998.

There is also a risk of increase in the number of independent non-maintained special school places being sought. These are usually very high cost.

3.5 Option 2: Re-purpose the building in Northview Avenue (recommended option)

This would require Cabinet to approve the expenditure required which would be funded from the SEN Capital grant. The provision would create places locally for pupils with SEMH needs identified within their Education and Health Care Plan. There would be a reduction on spend for out of borough placements along with the associated transport costs. The new facility would also support pupils who are currently receiving tuition which would also reduce tuition costs.

4. Reasons for Recommendation

4.1 Tilbury Pioneer Academy Expansion

The preferred option is option 3. If approved option 3 will:

- Ensure that the recommended minimum DfE classroom size is met.
- Provide 70 years lifespan for the new building.
- Provide additional hall space with studio.
- Enable a total of 4 SEND resource bases.
- Provide space to include nursery provision alongside their reception classes.
- Reduce spend on tuition costs.

4.2 Olive Secondary SEMH Provision (Northview Avenue, Tilbury)

The preferred option is option 2. If approved option 2 will:

- Provide local provision for pupils with SEMH needs.
- Reduce spend on placements and transport.
- Enable some pupils to be re-integrated back into their mainstream school.
- Enable pupils to work towards attending school full time.

5. Consultation (including Overview and Scrutiny, if applicable)

This report is being presented to Children’s Overview & Scrutiny committee 12th March 2024.

6. Impact on corporate policies, priorities, performance and community impact

6.1 The award of these JCT Construction and design contracts will enable the Council to continue to meet its statutory duty under the Education Act 2006.

6.2 The improvement of the educational assets is linked to key corporate priorities:

Priority	Delivered by
People	Improve health and wellbeing through improvements in the quality of the learning environment and opportunities provided

Place	Creating a great place for learning and opportunity by improving the education assets within the borough.
Prosperity	Encourage and promote job creation and economic prosperity through the provision of local employment and training opportunities.

7. Implications

7.1 Financial

Implications verified by: **Mark Terry**
Senior Financial Accountant

4th January 2024

Additional accommodation which is needed to meet the statutory requirement to provide places for the increasing pupil numbers, will be funded from a combination of the DfE capital basic needs grant and Section 106 monies held for Education provision. Once in-depth feasibility and design studies have been completed, funding requirements will be quantified and confirmed.

At its meeting on the 15th of March 2023, Cabinet agreed an original budget allocation of £3m for the Tilbury Pioneer Academy expansion. Should Cabinet agree on option 2, the current agreed budget will increase by an additional £0.850m. If option 3 is agreed, a further £1.75m will be added to the budget. There are sufficient funds available within the schools DfE basic need grant, to fund these additional costs at Tilbury Pioneer Academy.

7.2 Legal

Implications verified by: **Kevin Molloy**
Principal Contract Lawyer

4th January 2024

Section 13 of the Education Act 1996 imposes a specific duty on local authorities to secure within their area that there is efficient primary education, secondary education and further education available to meet the needs of the population of their area. This is an absolute duty that is imposed by statute.

There are additional duties that flow from this such as duties under section 88 of the School Standards and Framework Act 1998, which imposes the duty to set school admissions numbers for each school year as well as Regulation 4 of the School Admissions (Infant Class Sizes) (England) Regulations 2012 which sets a limit of 30 pupils to one teacher in all infant classes. These duties mean that local authorities must take care to ensure that there are adequate school provisions within their area to meet these duties.

Therefore, Thurrock Council is under an obligation to ensure that there are available school places for children that live in its area and wish to access education in the area. Accordingly, the proposal set out herein is in line with the positive statutory duty to ensure that the demand for school places is met on an ongoing basis.

The Council, in accordance with section 19 of the Education Act 1996, bears the statutory duty for ensuring that all children aged 5-16 receive an education. In cases where a child of compulsory school age cannot attend school due to reasons such as illness or exclusion, the local authority is obligated to make arrangements for 'suitable education,' either at a school or an alternative venue.

Following issue by the Council of a s114 notice, the Council must ensure that its resources are not used for non-essential spending. The contract at issue here is essential and the provision of it a statutory duty under legislation. In procuring the services outlined, the Council must observe the obligations upon it outlined in national legislation and in its internal procurement rules. Officers should ensure Legal Services are kept informed as they progress through the procurement.

7.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon**
Community Engagement and Project Monitoring Officer
12th January 2024

Whilst there are no direct diversity and equality implications, the provision of these services will help to tackle inequality and social exclusion. The procurement process will follow responsibilities as set out within The Equality Act 2010 and Public Sector Equality Duty, with due regard to advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

The procurement approach set out in this report will enable the Council to continue to meet its statutory duty under the Education Act 2006, to ensure that suitable and sufficient places are available in Thurrock for every child of school age whose parents wish them to have one, whilst ensuring value for money.

7.4 Risks

Please refer to options detailed in section 3 of the report. In addition, consideration has been given to a number of risks identified within the table below which relate to option 1.

Strategic	There is a risk that the council will not be able to meet its statutory duty to provide sufficient school places.
Operational	The school admissions team will not be able to offer school places where they are required within the borough, this would have negative impact on families as they would be required to travel to the nearest school with places. As schools are academies the council is unable to direct schools to open bulge classes.

	The council will not be able to reduce its cost for pupils who require specialist SEMH provision.
Financial and Legal	<p>There is a financial risk to the council's revenue budget where children's travel to next nearest schools with spaces exceeds the distance criteria for free travel assistance, statutory guidance places a duty on the council to fund such transport free of charge.</p> <p>There is a financial risk where current tuition providers take a long time to source a face-to-face tutor to provide education for SEMH children missing education where the local government ombudsman (LGO) can order the council to pay £2400 per term per child for loss of education.</p>
Contractual	There is contractual risk whereby the council will need to terminate the existing contract for the multi-disciplinary design team and agree final payment for completed design works.
Reputational	<p>There is a reputational risk where the council is unable to offer places within a reasonable distance to the family home address, which often results in a high number of complaints.</p> <p>Parents also have the right to complain to a first-tier tribunal for a school of their choice, the first-tier tribunal can order the council to place children in out of borough schools where there is no local provision. The Council is required to comply.</p>

7.5 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

None.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- Cabinet report 15 March 2023 – School Capital Programme Update 2022/23

9. **Appendices to the report**
Tilbury Pioneer Expansion

- Appendix 1 - Alderton Associates Cost Plan ref: A3408_Cost Plan_Refurbishment
- Appendix 2 - Alderton Associates Cost Plan ref: A3408_Cost Plan_New Build
- Appendix 3 - A3408_901_A_PROPOSED FLOOR PLANS
- Appendix 4 - A3408_902_A_PROPOSED ELEVATIONS

- Appendix 5 - A3408_903_A_PROPOSED SITE LAYOUT
- Apprndix 6 - A3408_904_PROPOSED RENDERS

Olive SEMH Base (Northview Avenue, Tilbury)

- Appendix 7 - A2877_201_A_PROPOSED PLAN
- Appendix 8 - A2877_202_PROPOSED SITE PLAN

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