

Report Title:	<b>Additional capital for Lowbrook Academy</b>
Contains Confidential or Exempt Information?	<i>NO - Part I</i>
Member reporting:	Cllr Natasha Airey, Lead Member for Children's Services. Cllr David Evans, Deputy Lead Member for School Improvement. Cllr MJ Saunders, Lead Member for Finance
Meeting and Date:	Council 27 June 2017
Responsible Officer(s):	Kevin McDaniel, Director of Children's Services
Wards affected:	All

## REPORT SUMMARY

In May 2015 the Council asked Lowbrook Academy to take an intake of 60 pupils for September 2016, instead of 30. The Academy agreed on the basis of a permanent expansion to become a two form entry school – i.e. 60 pupils per year group. This was supported by the Council and a budget of £1,600,000 (plus a £200,000 part II contingency) was allocated to accommodate the extra 120 pupils, taking the school to a total of 420 pupils. This budget equated to £13,300 per place.

The project was to be delivered in two phases so that pupils could be admitted before the whole scheme was completed. Phase 1a) is complete, Phase 1b) is underway and Phase 2 is paused, pending discussion with the Council about funding for the full scheme.

The delivery of Phase 2 has been delayed pending an agreement being reached with the Local Authority to fund the increased project cost. The total project cost is likely to be £2,475,500. This is an increase of £775,000 - equating to £20,628 per place, see section 4.

Funding for the scheme has always been from Royal Borough capital sources, instead of Basic Need capital funding from the Department for Education. This is because the expansion of the Academy is not a Basic Need requirement. The Academy did apply to the Education & Skills Funding Agency for funding but this has not been successful. The total project costs need to be funded from the Council's own capital sources.

Delays to the design and delivery of Phase 2 mean that the building will not be complete until Spring 2019. As a result the school have decided not to admit 60 pupils in 2017, consequently only 30 school places for September 2017 have been allocated to families.

If the recommendations in this paper are approved and tenders are within the new budget, the school would be able to admit 60 pupils in 2018, but will need to continue using the new staffroom instead of having a temporary classroom while the building work takes place. The cost estimate excludes the cost of a temporary classroom.

Phase 1 has been managed by the school. Phase 2 will be managed by the Council, using Shared Building Services. A steering group will govern the project

and its costs. It is proposed to spend £130,000 of the existing capital budget to invite tenders for a Design and Build contract, to ascertain a known project cost. If that cost comes within the new budget requested in this report, the scheme will go ahead, if it is not within, options will then be considered.

## **1. DETAILS OF RECOMMENDATIONS**

**RECOMMENDATION:** That Council notes the report and:

- 1) Approves an additional capital sum of £775,000 for the delivery of the scheme as currently designed, for Lowbrook Academy.**
- 2) Confirms that if the additional budget of £775,000 proves to be insufficient, three options will be considered:**
  - Further capital budget.**
  - Value engineering reduces the scheme to match the available budget.**
  - The scheme proceeds no further.**
- 3) Approves the Local Authority leading the Steering Group to oversee Phase 2.**
- 4) Understands that up to £130,000 from the remaining budget of £1,229,000 will be incurred to arrive at a tendered project cost.**
- 5) Requires the Academy to enter into an appropriate arrangement, agreed with the Council, which enables the new hall to be made available for public uses outside of normal school hours.**

## **2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED**

### **Background**

2.1 Lowbrook Academy, a primary school in Cox Green, Maidenhead, has a Published Admission Number (PAN) of 30. The school has taken an additional 30 pupils into the Reception year in the past four academic years from 2013 to 2016. This means Lowbrook Academy has 10 classrooms accommodating 300 pupils and are using a non teaching area, IT space and staff room, to teach 30 pupils. The pupils in the school are:

- Year R:60 pupils**
- Year 1: 60 pupils**
- Year 2: 60 pupils**
- Year 3: 60 pupils**
- Year 4: 30 pupils**
- Year 5: 30 pupils**
- Year 6: 30 pupils**

2.2 The intake of 60 into the current Reception class (in September 2016) was agreed following negotiation in Spring 2016 over the proposed permanent expansion of the academy. The rationale for supporting the expansion of this year group was that many children living in the designated area but without

older siblings already at the school were not being offered a place at Lowbrook due to the oversubscription criteria and the high numbers of applications for a place at the school. If more designated area pupils had been admitted, then fewer siblings would have gained a place.

- 2.3 Lowbrook is its own admissions authority, so sets its own policy for allocating places. Lowbrook's admission policy has admitted any siblings as category 2, ahead of designated area pupils, category 4. This has been changed from September 2017 following a decision by the Office of the School Adjudicator and is now in line with other borough schools' criteria. The Lowbrook designated area is shown in Appendix A.
- 2.4 Lowbrook Academy only agreed to take the additional 30 children in September 2016 (thereby admitting the designated area children) as part of a permanent expansion to two forms of entry (FE). When fully expanded, Lowbrook Academy would then have 60 places in each year group; 420 pupils in total.
- 2.5 The Academy has sufficient space for 300 pupils in the existing classrooms on the site. Consequently to accommodate 420 pupils the school would need four more teaching spaces for the additional 120 pupils.
- 2.6 A budget of £1.6m figure (£13,300 x 120) was negotiated with the Academy and approved at Council in June 2016. This approved capital resource was to provide four classrooms, a replacement staffroom and additional hall capacity of 167m<sup>2</sup>. This figure, £13,300, is slightly below the national benchmark of £13,755 per primary school place for re-builds and extensions as published by the Education Funding Agency<sup>1</sup> in February 2016 and represents good value in school expansion terms.
- 2.7 During the negotiations for the £1.6m capital investment, Lowbrook Academy expressed the opinion that that the budget would not be sufficient for the scheme. At the Governors' meeting where agreement was reached, there was a discussion about any potential shortfall. The Local Authority understood that the school didn't have any contingency funding beyond £50,000 it was putting into the project and therefore the Council carried the unknown risk. In addition to the £1.6m committed to the school, the Local Authority made a Part II provision of £200k contingency into the capital programme, including potential fees for amending the lease of Cox Green Academy, who had agreed to surrender some of their leased land to enable Lowbrook Academy to expand.
- 2.8 The school requested and was given project management, design and contracting accountability within the agreed budget, via a steering group that included the borough's Head of Schools and Educational Services. During the design process, it was established that expansion of the current hall could not be practically delivered and a second hall space of 290m<sup>2</sup> was proposed.

### **Progress**

- 2.9 The work was split into two phases, to enable 60 pupils to be admitted to the reception year groups during the two academic years that it would take to complete the expansion work. Phase 1 comprised two parts – the first was

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<sup>11</sup> *National School Delivery Cost Benchmarking 2016*, Hampshire County Council, February 2016.

completed in summer 2016 and the second is almost complete. Phase 2 has an outline design agreed, and has been through the RBWM pre-planning process. If additional budget is approved, completion is likely to be Spring 2019.

- **Phase 1a - complete:** Some remodelling to convert some small spaces into a large enough space for a temporary classroom - this would eventually become the school's IT/ library area.
- **Phase 1b – nearly finished:** A new staff room to be built between the kitchen and the car park – this would be used as a classroom until Phase 2 is complete.
- **Phase 2 - being designed:** A new block on land between Lowbrook school and Cox Green school, to accommodate four classrooms and a second school hall of 290 m<sup>2</sup>.

- 2.10 In Autumn 2016, the cost of the second phase (hall and four classrooms) was estimated at £1,930,000, including fees. This was cost effective for the elements proposed, although with the £421,000 already spent raised the cost of the whole scheme to £2,350,000, which would be £19,600 per place. Until tenders are received, costs can not be confirmed.
- 2.11 Design work on Phase 2 was halted by Lowbrook Academy, who were originally managing the whole scheme, because they had not received assurance from the Council that the full scheme would be fully funded. The design work is now six months behind schedule. In addition the consultants who were designing the scheme have reorganised their business, so will not be re-appointed to continue with this scheme.
- 2.12 During the Phase 1 building work, the school's IT room and staffroom have both been used as classrooms, enabling them to accommodate 11 classes. When this is complete, the staffroom would revert to being a staffroom and after completion of Phase 2, the IT room would revert to its designated use.
- 2.13 For a 2018 intake of 60 pupils, the school would have 12 classes to accommodate, and will need to use the staffroom as a teaching space for one more year.
- 2.14 Based on the current design for Phase 2 and including the cost of a temporary classroom if required, the latest desktop estimate for the cost of Phase 2 has risen to £2,672,000, taking the overall cost estimate to £3,093,000. This estimate has been drawn up by Shared Building Services, using recent indicative pricing for a Design and Build scheme based on the current agreed floorplan. Section 4 outlines the elements of this revised cost estimate. This represents a cost of £25,775 per pupil place.
- 2.15 However, two tenders have been received in mid-June, which are considerably lower than their pre-tender estimates. They have yet to be analysed, but the indication is that the market is more competitive than expected. Based on this local and up to date evidence, if the Academy were to agree to manage without a temporary classroom, the total project cost is estimated to be £2,475,000. This represents a cost of £20,629 per pupil place.

- 2.16 In order to confirm what budget is required, Council are asked to agree to expenditure of approximately £130,000 from the unspent budget of £1,226,000 so that tenders can be invited for a Design and Build scheme. This will take advantage of what appears to be a good time for the market, and will allow the Council to know exactly what budget is required to implement this scheme.
- 2.17 Council is being asked to fund a further £775,000 to complete a scheme to expand the second most popular primary school in the borough, which is also the highest performing school in the borough and the highest performing academy in the country at Key Stage 2. If tender prices exceed the budget allocation, the steering group will be asked to consider options for bringing the scheme to within budget. If more capital is required it will need to be approved.
- 2.18 If this proposal is approved, this phase of the work will be managed by the Council, using Shared Building Services, as happens with many other major capital school projects.
- 2.19 The existing steering group will be re-shaped to be chaired by a Member. The Chairman will have delegated responsibility for arbitrating any disputes that may arise from the project team within approved budgets. The project team will comprise LA officers as the 'client', the school leadership team as the 'end user', and the technical team managed by Shared Building Services. The steering group will sign off all elements of Phase 2.

### **Finance**

- 2.20 The Academy does not have sufficient funds to cover the cost of the preferred scheme other than £50,000. As a state funded school, the Academy receives funding on a per pupil basis on the same basis as every other school. They can generate income from renting space, such as the nursery building or offering other professional services.
- 2.21 The Royal Borough receives capital grant funding for the provision of new school places where there is a local shortfall, via the Basic Need grant. This can be spent on academies. The Royal Borough can decide to spend local capital resources with Academy schools by agreement. This is not a Basic Need scheme so will be funded by local capital sources, if approved.
- 2.22 In addition, academies can apply for grant from the government Condition Improvement Fund (CIF) for building works - including expansions, where schools are expanding to meet parental preference, as is the case at Lowbrook Academy. The school did submit an application to the CIF for the full cost of the scheme, but heard in the Spring 2017 they were unsuccessful.
- 2.23 Lowbrook Academy can proceed no further with the designed scheme without certainty of budget availability - and the Academy governors have declined to consider a different design at a lower cost.

### **School Places for September 2017**

- 2.24 The national date for announcing September 2017 places for Reception children was 18 April 2017. All parents who applied for a place have been offered a school place. As a result of there only being 30 places available at Lowbrook two pupils from the designated area have been offered a school that

was not listed as one of their preferences. Four pupils from the designated area that were not offered places in Lowbrook are on the Lowbrook waiting list. Academies maintain their own waiting lists, keeping them in admission rule order. As at 7 June 2017, the Admissions database showed that there were 44 pupils on the waiting list for Lowbrook Academy. Nine are siblings and 15 and designated area.

- 2.25 The school confirmed to RBWM on 25 May 2017 that due to the timescales for teacher recruitment for September 2017, regardless of a decision about funding they will not be able to admit any additional pupils in September 2017. If funding for expansion is agreed the school remain committed to working with RBWM to achieve the expansion for future years.

#### **Need for additional places at Lowbrook**

- 2.26 It is currently anticipated that in Maidenhead there will be a surplus of around 78 places in the Reception year in September 2017. This is a surplus of 2.5 Forms of Entry (FE), or 8.7%.
- 2.27 Pupil projections for Maidenhead suggest that the demand for September 2018 and September 2019 should be lower than the 2017 demand, so continued surplus of 5-10% places will be achieved. This lower demand is a result of a falling birth rate, which could, start to rise again in the future.
- 2.28 New housing construction in Maidenhead will partially offset the falling birth rate, although the bulk of this over the next five years is currently expected to be in the town centre, which is not in the Lowbrook designated area.
- 2.29 The Royal Borough has recently published its Infrastructure Delivery Plan, setting out what infrastructure, including schools, will be needed to serve the 14,000 new dwellings planned for the period to 2032/33. Approximately 18 FE of additional primary school places will be needed in Maidenhead. Some of this will need to be on new school sites (9 FE), with the other 9 FE expected to be achieved by expanding existing schools.
- 2.30 The borough will engage with all schools to assess which ones have the capacity, capability, population and reputation to expand as part of a programme which will have to deliver value for the public purse. Lowbrook would be part of this consultation for the future.
- 2.31 The options for how to proceed with expansion are set out in Table 1.

**Table 1: Capital investment options**

<b>Option</b>	<b>Comments</b>
1. Increase the capital investment by £775,000 and proceed to tender to obtain cost certainty.	This would allow the current design scheme to proceed provided tenders are within budget. This would give the school the scheme they seek, and ensure that more places at Lowbrook Academy are given one in 2018 and beyond.  This investment will increase the pressure on the borough's capital programme.
2. Not increase the approved budget.	Lowbrook Academy has stated that they would not agree to this option, and would refuse to take 60

Option	Comments
	children in 2018 and subsequent years. Their reception in-take numbers would remain at 30. The remaining capital budget, estimated at £1,226,000, would revert to the Royal Borough.

### 3. KEY IMPLICATIONS

**Table 2: Key implications**

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Lowbrook academy permanently expands to take 60 pupils per year group from 2018 onwards.	Beyond 1 <sup>st</sup> Sept. 2018.	1 <sup>st</sup> Sept. 2018.	1 September 2017	NA	1 <sup>st</sup> Sept. 2018.

### 4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 Option 1 would incur a capital budget increase of £775,000, taking the total budget to £2,425,000, excluding the school's £50,000. Funding would be provided from Council capital sources as this is not a Basic Need project.
- 4.2 Government Basic Need capital allocations are provided on an annual basis, this year's announcement was made in April 2017 and was similar to expectations, at £1,572,213.
- 4.3 The pre-tender estimate in table 3 is based on information and the design produced to date, and further risks and contingencies that may become material during future stages of the development are reflected in an allowance made, based on similar previous developments managed by Shared Building Services. Consideration of the latest unanalysed tenders received has now been factored in to this estimate.

#### 4.4 Table 3: Total expansion scheme estimate

Activity	Cost
Phase 1. Already spent.	£421,000
Phase 2. Estimated build cost	£1,723,000
Phase 2: Fees, utilities, contingencies	£331,000
Total Phase 2 estimate	£2,054,000
<b>Total project estimate</b>	<b>£2,475,000</b>
<b>Funding if approved.</b>	
Current budget (£1.6m+50k contingency)	£1,650,000

Additional budget requested	£775,000
School contribution	£50,000
<b>Total budget if approved.</b>	<b>£2,475,000</b>

- 4.5 The school are contributing £50,000 to the project. If the recommendations are approved, their contribution will be required on acceptance of tenders. If the recommendations are not approved, their contribution will not be required.
- 4.6 The total budget of £2,475,000 represents a cost of £20,629 per pupil place. Phase 2 of this project is a standalone new build block on a constrained site with challenging access. It is comparable to the construction project for the new Oldfield school which delivered 420 places at £20,305 per place, ignoring any income from the subsequent use of the old location.
- 4.7 Additional capital commitments would be funded by borrowing. The annual revenue cost is estimated to be £38,750 for capital of £775,000, rising to £69,500 if the additional capital requirement rises to £1,393,000.

**Table 5: Indicative capital requirement**

	<b>Option 1 2018/19</b>	<b>Option 2 2018/19</b>
Addition	£775,000	£0
Reduction	£0	£0
Net impact	£775,000	£0

## **5. LEGAL IMPLICATIONS**

- 5.1 As an academy, Lowbrook Academy should apply to the Secretary of State to make a significant change, in this case *'an enlargement of the site so that it can provide spaces for at least 30 additional pupils'*<sup>2</sup>. The school will need to consider whether this requires a fast track application or a full business case. In either case, the application will require the funding to be available, planning permission received, for the academy to demonstrate that they have carried out a fair and open consultation, and that the expansion is unlikely to have a negative impact on education standards at the academy or at other local schools.
- 5.2 Local authorities are under a statutory duty to ensure that there are sufficient school places in their area, under the Education Act 1996, Section 14, subsections 1 and 2.
- 5.3 Building Bulletin 103 sets out the national guidance on the amount of space that schools require.
- 5.4 This phase of the expansion work is subject to planning approval, which has yet to be sought.

<sup>2</sup> Page 6, *Making significant changes to an open academy*, Education Funding Agency, March 2016.

## 6. RISK MANAGEMENT

**Table 6: Risk management**

<b>Risks</b>	<b>Uncontrolled Risk</b>	<b>Controls</b>	<b>Controlled Risk</b>
Further increases in the project cost arising from the design stage	High.	Robust oversight from the Steering Group of the Design and Build contract.	Low.
Further increases in costs from tendering stage.	High.	Give adequate time to contractors to price for the work.	Medium.
That additional expenditure to go out to tender is abortive if in the end the scheme does not go ahead.	Medium	Proceed to tender quickly.	Medium.
Lowbrook academy fails to expand in all year groups if higher costs of project are not met and further complaints from residents if preferences for Lowbrook are not met.	High.	Continue to support all schools to become Outstanding, reducing the pressure on Lowbrook.	Medium.
Raising expectations of funding levels at other schools in future.	High	Ensure robust rationale is agreed for other projects, including budget expectations.	Medium
A project of this size may possibly trigger the threshold for EU procurement processes for consultancy services.	High	Carry out a non-EU tender exercise based on expected costs being below the threshold. If above, the formal EU process will be needed, adding in further time delays.	Medium

6.1 The resource spent so far on Phase 1 works will not be wasted, as the spaces will revert to staffroom and IT spaces if the expansion does not go ahead. The school will however have more classrooms than usual for a 1FE primary school once the cohorts of 60 pupils have moved on to secondary school.

6.2 The guiding principles of the Phase 2 project are:

- The outline design of a block comprising four classrooms and a 290m<sup>2</sup> hall is agreed.
- Loose furniture and equipment costs are excluded from RBWM funding.
- Design standards will be based on those used in borough managed schemes and Education Funding Agency standards, except for the room sizes which will be as in the current floor plan design.
- Shared Building Services will follow normal RIBA design and construction stages.
- Any changes to design will be managed via a 'change order' process, to be signed off by the steering group, specifying who has agreed to fund the change.
- The project team and steering group will endeavour to keep the project as cost effective as possible, and any savings will revert to the Council.
- Lowbrook Academy are contributing £50k to the overall project cost
- The project external works will be limited to essential work and making good. The laying out of external areas will be funded separately by the school.

## 7. POTENTIAL IMPACTS

- 7.1 There are no staffing or sustainability impacts for the Royal Borough arising from this proposal. An Equality Impact Assessment is not required.

## 8. CONSULTATION

- 8.1 No consultation has been carried out by the borough on this proposal. The planning process will require local consultation on the planning application. The academy will need to demonstrate that it has carried out a fair and open consultation when it applies to the Secretary of State for permission to expand.

## 9. TIMETABLE FOR IMPLEMENTATION

**Table 9: Timetable for implementation**

Date	Details
End June 2017	Approval of additional capital budget.
July 2017-December 2017	Tenders sought for a Design and Build scheme.
January 2018	Consideration of budget implications once prices are known.
May 2018 - March 2019	Building work takes place.
April 2019	Ready for occupation.

- 9.1 Implementation date if not called in: immediate.

## 10. APPENDICES

- Appendix A – Map of designated area.
- Appendix B – Floor plan of proposed classroom and hall block.

- Appendix C – Plan showing land to be used.

## 11. BACKGROUND DOCUMENTS

- *Lowbrook School Additional Classroom*, Report to Council, June 21 2016.
- *Area guidelines for mainstream schools, Building Bulletin 103*, DfE, June 2014.
- *Making significant changes to an open academy*, EFA, March 2016

## 12. CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Commented &amp; returned</b>
Cllr N Airey	Lead Member for Children's Services	7/6/2017	9/6/2017,16/6
Cllr Saunders	Lead Member for Finance	7/6/2017	9/6/2017, 16/6
Cllr D Evans	Deputy Lead Member for School Improvement	7/6/2017	13/6/2017, 16/6
Alison Alexander	Managing Director	14/6/2017	15/06/17, 16/6
Russell O'Keefe	Strategic Director	14/6/2017	
Rob Stubbs	Section 151 Officer	7/6/2017	

### REPORT HISTORY

<b>Decision type:</b> Key decision (June 2017)	<b>Urgency item?</b> Yes
Report Author: Kevin McDaniel, Director of Children's Services, 01628 683592	